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THE NEW REPUBLIC

A Journal of Politics and the Arts — June 26, 1971, 50 cents

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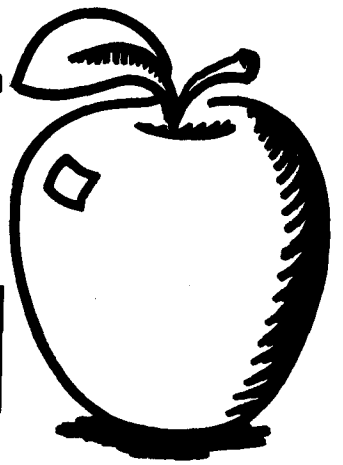

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The TV program Nixon didn't want to see and the film the networks didn't want to show.

The TV program is CBS' "The Selling of the Pentagon," nominated for Peabody and Emmy awards and, more than that, damned by Richard Nixon, Melvin Laird, John Mitchell and a House Committee that's so angry about this expose it's subpoened CBS' out-takes. Now in print, exclusively in Earth.

The movie is "The Silent Majority," a documentary study of hard-hat attitudes in a small community outside Chicago. The film, made for TV, flies in the face of Spiro Agnew and his characterization of blue collar America. Because of administration pressure, it cannot be shown; but—surprise Spiro!—now you can buy it at any newsstand.

Earth: an underguide to the new world and the old

Plus a few things of our own: Fellini on his latest film "Clowns"; David Brower on "It's Only a Little Planet and How Beautiful It Was"; Alan Watts on "Learning: The Hard Way and the Soft"; a documentary narrative and photo essay on a black kid who is a three-time loser at 15; five paintings by Ernst Fuchs; an underguide to music, cities, colleges and events.

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TRB

from Washington ®

Fit to Print

The Washington Post, which sometimes forgets to take itself seriously as a newspaper, devoted the entire front page above the fold on Sunday, June 13, to the story of Tricia and Ed getting married at the White House. What a heart throb! It was Nixon weather (drizzling and dry by turns), and Martha Mitchell had her yellow parasol and others umbrellas, and it rained a little – or didn't rain – and Alice Longworth said outside it was like sitting on a wet sponge.

On the same Sunday morning *The NYTimes* started the series on the Vietnam Archives culled from Pentagon documents labeled "classified," which the Justice Department intervened to halt two days later on the ground that publication would do "irreparable injury to the national defense."

It was a dirty trick *The NYTimes* played – it was telling the public the facts, and it embarrassed a lot of people. For example, it probably means that we won't see the movie called *Vietnam, Vietnam!* which Frank J. Shakespeare, chief of the US Information Agency, authorized three years ago at a cost of $250,000. What a shame. It was to be distributed round the world, bearing the stamp of director John Ford (*Grapes of Wrath, How Green Was My Valley*) showing what a fine thing the war was and how pure America's motives. In three years of making the movie, the views on the war, alas, kept changing, and there had to be as many revisions as in a Soviet historical encyclopedia. "It's a dead duck," a USIA official said sadly at last, "and it will stay in the can."

Alas, too, for one of the most interesting forthcoming works of historical fiction in recent years, the reminiscences of Lyndon Johnson, booked for fall publication and reportedly now in galley proofs. It seems only yesterday that we watched Mr. Johnson pouring his heart out to Walter Cronkite on TV and, after we got used to the thing, we found it quite – well, exciting. But now many of the authentic documents about what was going on have been filched and published. (We are getting to expect this after the purloined FBI files from Media, Penna.) We can't be sure but we suspect there will have to be some stop-press revision of the upcoming Johnson accounts.

There is nothing in these behind-the-scenes documents that will win alienated youngsters back to faith in their far-seeing government. Many of the revelations, let's say it, are the kind of deception that make you feel sick at the stomach. While poor old Barry Goldwater was being attacked in the last days of the '64 campaign for being a mad bomber, President Johnson was already planning to bomb North Vietnam; he had begun arrangements five months before. When he told a Texas barbecue in August that he wasn't going to "load our planes with bombs" and enlarge the war to commit American boys to fight a war that "ought to be fought by the boys of Asia," he was just kidding; plans were already going forward. When Defense Secretary McNamara told senators that "there is no connection between this patrol (US destroyers in Tonkin Gulf) and any action in South Vietnam," that was untrue. Later McNamara denied that the captains of the two US destroyers had knowledge of any South Vietnamese raids. That wasn't so. He was asked at a press conference if he knew of incidents involving South Vietnamese vessels and the North Vietnamese and replied, "None that I know of." Untrue.

At a press conference of July 28, 1965, somebody asked Mr. Johnson if sending troops to Vietnam implied any change in existing policy. He answered flatly, "It does not imply any change in policy whatever." A lie. And so it goes.

We have now no doubt that there is going to be a senatorial investigation of Vietnam. Indeed, we have been expecting it for some time but the *NYTimes'* revelations, and the wonderful play they are getting with an assist by the Justice Department in trying to stop them (after the most damaging are already in print) precipitates matters. After all, the United States normally goes through a senatorial soul-searching after a war, even wars that it wins, as we wrote last week. It will be hard to keep such an investigation under control. Revulsion against Vietnam is reaching a point where it is almost a trauma. It will get worse the longer it goes on. Maybe Mr. Nixon's motives are lily pure. Maybe he isn't using the 500 US POWs as a reason for prolonging the war. But it is terribly hard to come from the 1964-68 story without doubts. America, Mr. Nixon thinks, must redeem its pledge "that we give the South Vietnamese a reasonable chance to defend themselves against Communist aggression." (Building up a million-man well-trained and equipped army, isn't enough.) Till the Vietnamization program is complete, Defense Secretary Laird told a TV audience, "we will have combat forces stationed in Vietnam." It sounds like the same old story.

It took a day or two even for sophisticated journalists in Washington to grasp the significance of the *Times'* documents, what with Tricia and Ed and all. The material was offered in uncompromising *New York Times* columns of tight print and a lot of the jigsaw pieces didn't fit together. There was war hawk Walt Rostow dashing off memos on how the North Vietnamese would wilt if bombed, and bellicose McGeorge Bundy urging ground troops, and President Johnson proposing a brief respite in bombing "which I could use to good effect with world opinion" and LBJ again cabling Ambassador Henry Cabot Lodge (March, 1964) "nothing is more important now than to stop neutralist talk whenever we can, by whatever means we can." There is CIA director McCone, warning, for a wonder, that bombing wasn't working. And Under Secretary of State George Ball (who comes out of the thing like the one sane man in a madhouse) urging the government to "cut its costs" and get out. Nobody listened.

The United States, we think, is going through a paroxysm of self-doubt. Journalistically it is hateful and absorbing by turn to sit here and watch the emotions of anguish, deception and frustration. How nice it will be someday, when the war ends, and we can enjoy listening to patriotic music again.

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Suburban Snobbery

The Administration's long-awaited "federal policies relative to equal housing opportunity" are in effect a ratification and guarantee of continued apartheid in metropolitan America. Mr. Nixon takes 8000 words to say, first, that he will enforce existing laws against racial discrimination in housing, which is a bit redundant in light of his oath of office (but a welcome reassurance in light of federal enforcement of such laws to date); and second, that he will *not* act against economic discrimination in housing – unless it can be shown to be a subterfuge for racial discrimination and thereby illegal. He thus pledges presidential protection for the suburbs (a word he did not use) in continuing the exclusionary zoning and other practices which have created and maintained metropolitan apartheid.

The statement also places the presidential seal of respectability on some cherished suburban myths. "Quite apart from racial considerations," Mr. Nixon says, "residents of outlying areas may and often do object to the building in their communities of subsidized housing which they fear may have the effect of lowering property values and bringing in large numbers of persons who will contribute less in taxes than they consume in services." Is fear of lowered property values something "quite apart from racial considerations," Mr. President? "Beyond this," he continues, "and whether rightly or wrongly, as they view the social conditions of urban slum life many residents of the outlying areas are fearful that moving large numbers of persons – of whatever race – from the slums to their communities would bring a contagion of crime, violence, drugs and the other conditions from which so many of those who are trapped in the slums themselves want to escape." Has the President no opinion on whether this fear is right or wrong, and does not his portrayal of the blacks and poor as urban lepers only heighten the fears he describes? If slum residents are carriers of social "contagion," what is more logical than to keep them in isolation?

Weirdly, these passages are preceded by an almost-eloquent accounting of "the costs of racial separation": "an estrangement that all too readily engenders unwarranted mistrust, hostility, and fear . . . waste of human resources through the denial of human opportunity . . . wages lost because minority Americans are unable to find

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housing near the suburban jobs for which they could qualify." "Clearly," the President says, "both outright racial discrimination and persisting patterns of racial concentration combine to create a serious set of problems that public policy must seek to meet . . . and they pose a challenge of the first magnitude to the community or the metropolitan area that tries to meet them." He finds it "encouraging," however, "that many communities are meeting this challenge, and meeting it successfully."

Mr. Nixon is too easily encouraged. Instances in which metropolitan areas are facing, much less meeting this challenge are as rare as the bald eagle. The failure to understand this is at the core of his explicit abdication of federal responsibility. The challenge is a national one, yet the President proposes that its resolution be left largely to local option, which leaves it nowhere. The fragmented nature of our metropolitan areas guarantees that the victims of racism will have the least to say about the exercise of local option.

There is a further reason, moreover, why metropolitan apartheid is a federal responsibility. As Mr. Nixon noted, residential segregation has developed in large part with federal complicity. He did *not* note (the US Civil Rights Commission did a few days before his statement) that it is being replicated now with an even larger degree of federal complicity. In postwar years, FHA loans greatly speeded the white flight to the suburbs; FHA policies and practices explicitly preserved racial and class segregation. Today, new forms of FHA assistance are having precisely the same effect, according to the Civil Rights Commission report dealing with the so-called Section 235 program to help low- and middle-income families attain home-ownership, a program that accounts for nearly a third of all purchases of under-$25,000 homes. The commission's investigation has shown that the program has been used extensively by white families to buy new suburban homes – but that its use by nonwhites mainly was limited to buying older (and often decaying) homes in the cities. Blatantly racist passages have been removed from FHA manuals, but the commission found that FHA field offices were doing virtually nothing to change the pattern of segregated occupancy of Section 235-aided housing, even though mandated by law to do so. This finding raises questions about the Administration's ardor for enforcing even the inadequate antidiscrimination laws that are on the books.

Part of their inadequacy is that they were passed at a time when the government was insignificant in the overall housing market. Federally assisted housing now accounts for a substantial percentage of all housing starts. Hence the need for new federal initiatives against apartheid in metropolitan America.

What sort of initiatives? Most involve the government's assuming responsibility for the impact of what is built with federal help, and maximum use of federal funding to lower barriers to building for those in need of shelter. The President repeatedly implies that such use would be of dubious legality, despite the amplitude of precedent for tying public purposes to public expenditures. He implies also that unbridled local control of planning, zoning and development is sacrosanct. It is not. It is something no other major Western democracy permits. It has been used in America, as Arnold Toynbee points out, in service of "the sly, collective selfishness of an excessively privileged minority."

The prime presidential justification for not taking such initiatives is the distinction between racial and economic segregation, based mainly on such an indisputable fact as that more whites than blacks are poor. Yet on the streets of the urban slums and ghettos and in the minds of resistant white suburbs, race and poverty *are* inextricably linked. And there is statistical justification for such linkage. It is no secret that blacks are three times as likely to be poor as whites – and that nearly one black family in three lives below the officially defined poverty line. But the gap is even larger in terms of housing. Poor black families are more than twice as likely as poor white families to live in substandard housing, according to the National Commission on Urban Problems.

Thus, economic exclusion offers the most effective means of racial exclusion, and Mr. Nixon's assurance that he will not let economic exclusion be a "subterfuge" for racism is, to say the least, disingenuous. It can only result in the buck being passed case-by-case to the courts. What this means is indicated by the case of Blackjack, Missouri, target of a Justice Department suit announced as a show of vigor by Attorney General Mitchell and HUD Secretary Romney three days after the President's statement.

Blackjack is a St. Louis suburb incorporated last year for the principal purpose of zoning out a federally subsidized housing development. It's a very special case, yet it took Justice seven months to act on HUD's recommendation of a suit. Furthermore, in charging that Blackjack's incorporation and subsequent exclusionary zoning action have "the purpose and effect of perpetuating racial segregation in housing," the government assumes the burden of proving not only segregation, but segregationist intent, which is a very hard kind of proof to get. Suburban town councils and zoning boards, in fighting lower-income housing, do not start their meetings by saying, "Tonight we're going to talk about how to keep the niggers out." Instead, they warn against "disrupting the community" and the hardships which the community would face in "assimilation" of poor people and their children. The two last-quoted phrases are the President's.

Following his reminder that some whites as well as blacks are poor and live in slums, the President says:

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"By the same token, the skilled trades, the businesses and professions, increasingly are populated by affluent blacks whose children go to the best schools and colleges. . . ." He cites "only one statistic" to demonstrate black progress, "that in the North and West, black husband-wife families headed by persons under 25 have a median income equal to that of their white contemporaries." He adds that "because these young families represent the future, it is an indication of where we are heading." The statistic is a favorite of Daniel Patrick Moynihan's. It ignores a companion statistic: the families in this heavily qualified category represent only three percent of all black families. And the percentage is declining because a rising number of black families in the under-25 age group are headed by women alone – a less encouraging indicator of "where we are heading."

Even if economic and racial discrimination were not so linked, there would be the question of whether the national conscience should countenance the continued ghettoization of the poor. For just as the impact of racism is heightened by concentration and confinement, so is the impact of poverty – the other great destroyer in the slums. Is the entrapment of *whites* in the slums rendered moral because it is not racial? The white poor and near-poor are the injured bystanders in Mr. Nixon's move to make national policy a handmaiden of suburban snobbery.

Staying on the Air

"An analogous change in election laws would mean that no one could run for office until the incumbent had been impeached." – J. Skelly Wright

In January last year the Federal Communications Commission tried to do administratively what Senator John Pastore had failed to achieve legislatively – insulate established TV and radio broadcasters from challenges to their licenses at renewal time. The FCC's chairman, Dean Burch, worked out with the White House and brought to a vote of the commission a new "policy" under which a licensee had only to establish that it had been "substantially attuned to meeting the needs and interests of its area" and had been without "serious deficiencies" (e.g. rigged quiz shows and patently fraudulent advertising) to have its lease on a channel renewed routinely every three years. Having established that these imprecisely defined conditions existed, a broadcaster would be invulnerable to challenge. The commission would not hold hearings on competing applications, whatever their qualifications.

Burch's "policy," Judge J. Skelly Wright wrote June 11 in a unanimous decision by a three-judge US court of appeals revoking it, had produced not stability but rigor mortis in the broadcasting industry. Not one renewal challenge has been filed in the past year, because none had any chance. Wright, speaking for himself and two Nixon appointees to the court, predicted his decision would restore "healthy competition" for control of TV channels and radio frequencies.

Apart from institutionalizing mediocrity, the Burch policy (to which Commissioner Nicholas Johnson dissented) violated the Federal Communications Act of 1934 as interpreted by the courts. Wright cited "explicit language in the Act to the effect that no automatic preferential rights are intended to be extended to the renewal applicant," and language providing for a "full hearing" to competing applications.

When the FCC, for the first time, in 1969, rejected a TV renewal application (WHDH in Boston) in favor of a challenger, even though the old licensee had provided programming considered by the commission "within the bounds of the average," the industry saw a threat to financial investments by prominent broadcasters who had relied on the assumption that licenses once granted would forever be renewed. Sen. Pastore, chairman of the communications subcommittee of the Senate Commerce Committee, promptly stepped in with a bill that would require the FCC to renew licenses of broadcasters with a record of "public service." Competing applications would be entertained only if the incumbent's license was not renewed. The bill was at one time supported by more than 100 representatives and 23 senators, though it was opposed in hearings as hostile to improved programming, competition and to minority groups eager to break into broadcasting. Burch, without public notice or hearings, ended the controversy by the FCC vote on his policy statement of January 15, 1970, in effect administratively adopting the Pastore bill. Burch substituted the test of "substantial service" for Pastore's phrase "public interest."

The practical effects of the recent court decision are hard to predict. A Pastore staff man on the communications subcommittee said last week, "I don't think the situation is changed one bit. All the court did is say competing applications will have to go to a full hearing. The commission still has to make a decision in each case. It can say in its decision what it said in its policy statement, that if the licensee has performed creditably and properly it will renew the license." In other words the FCC, barring a successful appeal of the Skelly Wright decision, will be back where it was

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before January of last year. Nicholas Johnson's office expects that while it may now be somewhat easier for new people to break into broadcasting – they'll get their hearing – there will also be renewed pressure on the part of the industry to revive the Pastore bill.

Students with Lawyers

In Oregon, students at 21 state and private colleges have launched OSPIRG – Oregon Student Public Interest Research Group. OSPIRG will have a $250,000 budget, financed by student fees of $1 per quarter; the State Board of Higher Education approved the financing plan after 32,000 of the 54,000 students on state campuses petitioned for the right to tax themselves thusly. OSPIRG will use the funds to hire ten full-time lawyers and specialists, who will work with student and faculty research teams on a variety of environmental and consumer protection projects. High on the list are investigations of land use in the Willamette Valley and the disposal of radioactive wastes. Policy recommendations will be made to state legislators with whom OSPIRG people have established good rapport.

Students at the University of California in Berkeley will bankroll a new public interest law firm called Citizens Action Law Advocates, or CAL Advocates; by a vote last month of 4352 to 1793, they approved a $1.50 per quarter contribution for the next three years (refunds available upon request, as in Oregon). With an initial budget of $100,000, CAL Advocates will hire half-a-dozen experienced attorneys – applications have already been received from corporation lawyers, law professors, and an aide in the Justice Department – who will work with student volunteers. The firm's specialty will be class action suits; it will take to court government regulatory agencies it thinks have failed to enforce the law, and private businesses that mulct or deceive consumers. Unlike other public interest firms, CAL Advocates will not depend upon OEO refunding and will be able to collect fees when it wins judgments – enough fees, it hopes, to make the firm self-supporting after three years.

Elsewhere, campaigns have begun in Connecticut and Ohio to raise $750,000 from students to investigate state and local governments; students at the University of Minnesota have launched (and the legislature has approved) MPIRG, similar to OSPIRG; law students at Stanford and UCLA are planning their own versions of CAL Advocates. By next fall, says Brent English, a senior at Oregon State and a leader of OSPIRG, student-financed public interest groups will "be all over the place."

Hatfield-McGovern

Former Senator Charles Goodell proposed 20 months ago that Congress set December 31, 1970, as the date by which all American troops would be withdrawn from Vietnam. Subsequently new dates have been set in new resolutions surrounded by new ifs and buts, but the Congress consistently turns them down. The original Hatfield-McGovern Amendment to End the War, reintroduced this year as the Vietnam Disengagement Act, was rejected last week by the Senate 55 to 42. And the next day, the House defeated the comparable Nedzi-Whalen amendment.

In the 20 months since Goodell made his proposal, Senator Alan Cranston noted last week, "6386 Americans have been killed in action in Vietnam. Another 2714 have died from so-called nonhostile causes. During the same 20 months, 46,164 have been wounded – 22,945 seriously enough to be hospitalized." Cranston's figures ignore the far larger Vietnamese casualties, which Mr. Nixon's policy of Vietnamization is guaranteed to generate *ad infinitum*.

Since, like his predecessors, Mr. Nixon could doubtless find ways to do more or less what he wants in Indochina without explicit congressional approval (or even knowledge) last week's vote was said to be largely "symbolic." But of what? It symbolizes the incorrigible unreadiness of Congress, casualties and the polls notwithstanding, to use its constitutional powers to force a settlement. The Congress is ready enough to say, "The legislative power to tax is inseparable from legislative authority over the uses to which taxes are put," but it will not say that when Vietnam is the issue. It will claim and use its prerogatives in setting tariffs, in approving treaties, in granting or denying foreign military assistance, in determining the kind of armed forces we shall have and the weapons with which those forces are equipped. But Vietnam? That is to be left to the Executive, despite massive and now public evidence of the disasters brought upon us by legislative abdication of responsibility.

Bankers Trust?

Treasury Secretary Connally says Congress must guarantee $250 million in bank loans to Lockheed Aircraft else the company will abandon its TriStar airbus program, declare bankruptcy and lay off 60,000 workers. Deputy Defense Secretary Packard, on the other hand, sees no great peril. "Our defense programs would be less troublesome if the company survives," he told Congress, "but it isn't an absolute disaster if it goes the other way." The least worried man appears to be Lockheed president A. C. Kotchian, who told a

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reporter at the Paris air show that the company might be able to finance its TriStar even without a congressional guarantee. So why the big fuss by Connally? John Kenneth Galbraith suggests the Texan may need "to prove himself with President Nixon." In a letter to Senator Proxmire, opposing the federal bailout, Mr. Galbraith comments that "a Democrat who cannot persuade a Democratic Congress isn't much use to Republicans."

The excuse for the $250 million loan guarantee is that the British government wants it as a return price for rescuing the Rolls-Royce engine contract. This argument, Mr. Galbraith notes, will appeal only to the "excessively susceptible [for] the British government allowed Rolls-Royce to go into bankruptcy partly with a view to renegotiating this contract." Lockheed doesn't need Rolls-Royce, moreover; either of America's two major engine-makers, General Electric or Pratt & Whitney, could do the job. In any case, Lockheed's president said, the British, if pressed, would probably settle for some other form of backing.

There's no question that hard-pressed Lockheed has to have $250 million in bank credit to start production of the TriStar, but why do the banks need a Congressional insurance policy? With so much money already sunk into the airbus, would the banks back out now? The airbus is potentially a money-maker; if financing of the TriStar is worked out, Kotchian says, Lockheed could even show a profit this year. If worst came to worst and Lockheed did slide into bankruptcy, the banks could still get most of their money back. A receivership arrangement, similar to Penn Central's, would be established, with Lockheed managed by a court-appointed trustee. The trustee could be expected to carry forward Lockheed's money-making operations – the Poseidon missile program and the TriStar. Most workers would keep their jobs. The real issue is not unemployment, or Lockheed's survival, or national security – just no-risk profits for bankers, and Secretary Connally hasn't yet made a convincing case for that.

The Closed Enterprise System

Nader on Antitrust

Ralph Nader has created a new genre of writing: the massive crash study of a government program or agency, conducted by a team of students or recent graduates (usually in law), skilfully publicized, written to shock and arouse, full of proposals for change and reform, fairly bristling with footnotes and other scholarly apparatus, and reflecting exhaustive library research and interviewing. *The Closed Enterprise System*, an 1148-page report on antitrust by a Nader Study Group headed by Mark J. Green, who graduated a year ago from the Harvard Law School, is the latest expression of the genre. It is an elaborate indictment of federal antitrust enforcement as cowardly, politicized, ineffectual, and directionless in dealing with corporate criminality of monstrous proportions. The study is less interesting in itself than as a representative product of the Nader factory.

Like other Nader-sponsored studies, *The Closed Enterprise System* resists assimilation to conventional categories of expression. Scholarship it is not, if by scholarship one means an honest and rigorous search for truth rather than merely a parade of learning. It is a highly tendentious work, in which patent self-contradiction is never permitted to blunt a good sally. Donald F. Turner, the distinguished Harvard Law School professor who headed the Antitrust Division for three years during the Johnson administration, and who is a particular object of criticism, if not vilification, is derided for having insisted that antitrust enforcement make economic sense; the authors refer contemptuously to his "sublime economics." Earlier they had announced that the core concept of the kind of economic thinking used by Turner to guide policy maximization of consumer welfare – would be the very "talisman" of their analysis. "Before all else," they said, "the economic system must deliver a diversity of quality goods at low prices." They then quoted Adam Smith to explain what they meant by this! At one point the authors quote approvingly an interviewee's comment that antitrust defendants, with their huge resources, will settle a case only if they can't win it. A little later, arguing for routine inclusion in consent judgments of an onerous provision exposing the defendant to treble-damage suits, they say that antitrust defendants will do almost anything to avoid the expense and publicity of a trial. The authors disparage the significance of the recent collapse in conglomerate corporations' profits: "The market power held by conglomerates, however, will not wither away as easily as its dividends." They had previously pointed out that market power *means* the ability to obtain excessive profits. The authors criticize the effect of monopoly on the distribution of income, contrasting the income of the chairman of the board of General Motors with that of the average auto worker. Earlier they had suggested that excessive wage settlements in concentrated industries represented a division of monopoly profits between labor and management at the expense of the consumer. They explain why the auto industry failed to introduce a pollution-free automobile in the following terms: "The massive new investment required would have disrupted the capital structure of the industry." Elsewhere they argue that the auto industry has adopted costly methods of produc-

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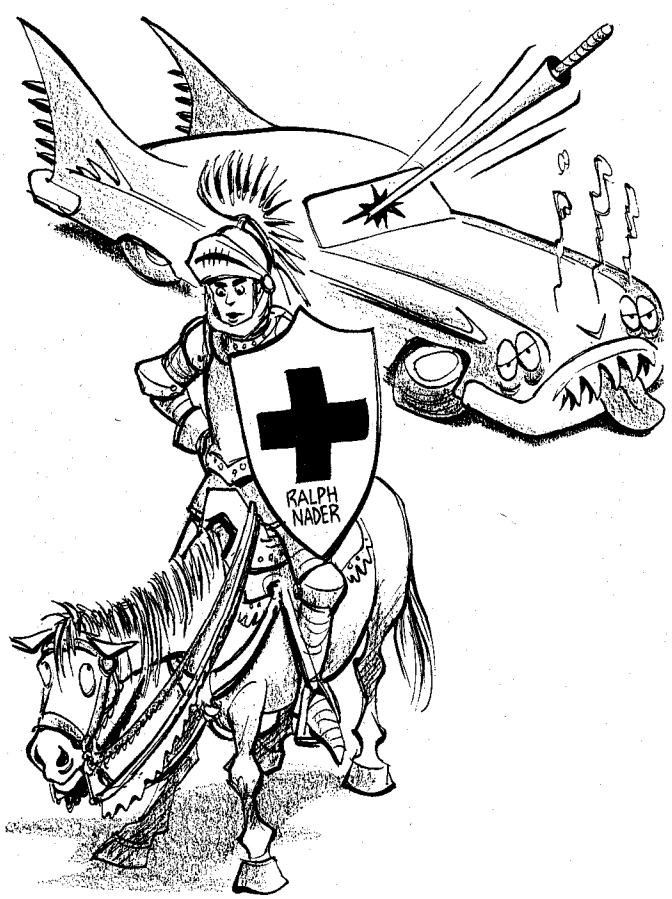
tion and distribution, involving annual style changes and elaborate systems of dealer franchising, precisely in order to create a capital structure in which the investments required are so massive as to discourage any new firm from trying to enter the industry.

The authors are not sensitive to inconsistency, nor are they curious about facts that do not square with their preconceptions. The power and menace of conglomerate corporations are among their key *donneés*; nowhere do they explain why, if conglomerate corporations wield such enormous economic and political power, they were unable to avert the antitrust suits, SEC-imposed accounting changes, and other adverse developments that in combination burst the conglomerate bubble, sent stock prices tumbling, and even toppled that archetypal conglomerate tycoon James Ling. The authors strongly condemn the acquisition of the Yankee baseball team by the Columbia Broadcasting System in 1964 as likely to entrench still further the power of the "US Steel" of baseball; they do not mention the Yankees' precipitous and prolonged decline into mediocrity after the acquisition. They charge the auto industry with forcing annual model changes down the consumer's throat, but fail to point out that the consumer now has a wide range of imported cars, *sans* annual model changes, to choose from and that imports now account for 16 percent of all new cars being sold in the United States. The authors inveigh against the alleged practice of powerful firms in failing to reduce prices in periods of slack demand, but fail to ask whether a monopolist in fact maximizes profit by holding price steady in such periods. The answer is that under usual cost conditions (rising marginal costs in the relevant range of output) the monopolist would increase his profits in a period of declining demand by reducing his price.



"You have poor traction, instability on curves, no rear visibility, high center of gravity, and you eat too much."

Although the authors are plainly aware of the existence of a substantial body of professional opinion opposed to many of their pet ideas – the range of their references indicates that – they carefully conceal the existence of alternative views. They refer extensively to my own articles on antitrust, for example – where the articles support their conclusions – but one would never know from reading their study that those articles, and much other theoretical and empirical work, refute many of the Study Group's fondest notions, such as that reciprocal buying is a major menace to competitive markets.

I have said that the study is not scholarship. Neither is it muckraking journalism – quite. The writing is lively, impassioned, and wholly one-sided. Donald Turner, for example, is presented as the stereotype of the unworldly and ineffectual professor thrust into a position of responsibility. The authors have uncovered some genuine scandals; and my impression from my own experience in the Justice Department and my personal acquaintance with a number of the principals in the Study Group's account is that their reportage is highly accurate in the main. What the authors have done particularly well is to capture, in quotations from their interviewees, some of the atmosphere of government as it is lived day to day: "Basil Mezines, a former R-P [Robinson-Patman Act] attorney, and Lewis Parker seem to be among the few lawyers in the R-P division who were doing work. Mezine's [sic] interest in enforcement, however, has come under frequent criticism from other staffers. 'Hell, all the cases he tried were in California or in Florida,' one said, 'he'd just jump on a case if it was from there.' Mezines admits this geographic bias, but points out: 'At least, I was trying cases.'"

Or again: Among the typical staff responses [to a reorganization of the FTC announced with much fanfare by a new chairman] . . . were: "They stuck a pitchfork in a pile of manure and gave it a flip."

The least excusable method by which the Study Group tries to enlist the reader's interest and concern in antitrust policy is by linking vigorous antitrust enforcement to the abatement of pollution and reduction of defense spending. Although there has indeed been a case where a conspiracy to retard the introduction of automobile antipollution devices was attacked, and properly so, as an unlawful restraint of trade, it is preposterous to view pollution, as the Study Group

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does, as a symptom of monopoly. Monopolists are no more, and in fact less, likely to pollute than competitive firms. The smog that I stare at from my office window is the product of thousands of coal-burning furnaces in old apartment buildings. Competition makes pollution harder to control because in a competitive market each firm is reluctant to be the first to introduce an antipollution device. By increasing the cost of its product, the device puts the firm introducing it at a competitive disadvantage. It cannot charge the consumer a higher price for the product, because the benefits of antipollution devices typically run to third parties rather than to the purchaser of the device. A monopolist can partially compensate for any increased cost of production by raising his price; this option is foreclosed to a firm that has competitors eager to undersell it.

Despite its opportunistic bids for the public's ear, *The Closed Enterprise System* isn't quite in the muckraking tradition of Upton Sinclair. It is best described as a brief (it is no accident that both Green and Nader are lawyers). A brief is a work of advocacy rather than of disinterested scholarship, but it is addressed to a more select and critical readership than a newspaper exposé. The brief-writer starts with his conclusion and works backward, carefully marshaling evidence and authorities to create the appearance, at least, of reasoned exposition. But this particular brief displays the cardinal failing of briefs: it overargues its case. Who is fooled? The public that will not read the book, perhaps, but not those who are professionally concerned with antitrust, to whom the book is addressed. Nor is its persuasiveness enhanced by the authors' deep and unreasoning prejudice against all potential antitrust defendants. The only basis on which they criticize the bringing of an antitrust case is that the violation is not serious enough, or the industry is too small, to warrant the expense of suit. The notion that a corporation might occasionally not be guilty of monopolistic practices does not occur to them. No theory of antitrust liability suggested by a past or present Antitrust Division trial lawyer is too cockeyed for the authors to embrace enthusiastically. They are vindictive to boot. They urge mandatory minimum four-month prison terms for first offenders against the antitrust laws, regardless of the presence of mitigating circumstances that would normally counsel a reduced or suspended sentence or probation. They also favor much greater use of paid informers.

The weaknesses of the study are considerable, but so are the strengths. As a review of the literature on the failures of antitrust policy, the study is impressively thorough. Its recommendations for improvements in the organization and methods of antitrust enforcement are frequently imaginative and practical. What is more, the overall conclusion of the study is correct! Antitrust enforcement *is* grossly inadequate. The agencies lack a sense of purpose; they fritter away their resources on trivial violations; they are buffetted by congressmen and influence peddlers; they lack sanctions adequate to deter the business community from violating the antitrust laws; their lawyers are outnumbered and often outclassed by the antitrust defendant's. The indictment has been returned before, but the Study Group has provided impressive new evidence of its essential validity.

And yet I doubt that *The Closed Enterprise System* will have a durable impact on the course of antitrust enforcement, and perhaps this is a point with general application to the entire Nader crusade. Worse than the contradictions, the tendentiousness, and the tone of the study is its superficiality. If only Don Turner had been tougher, Nick Katzenbach less political, Mary Jones less eager to become Chairman of the FTC, Lloyd Cutler less diabolical . . .; then, the Study Group seems to imply, the antitrust millennium would have arrived. I don't agree that the failure of antitrust is a matter of the imperfections of individuals (if it is, too bad; I have no faith in human perfectibility). It is rooted in impersonal conditions of which the authors seem in the main unaware. It is rooted first of all in ignorance of the basic phenomena. We know little about monopoly. We don't know how to identify it, except in certain blatant forms that are rarely encountered any more; we don't know the costs of trying to cure it. We have great difficulty in distinguishing competitive from monopolistic practices. Contrary to the impression that the authors sedulously cultivate, the economics profession is deeply divided on the antitrust significance of concentration and oligopoly, advertising and product differentiation, reciprocal buying, vertical integration, diversification, and other key phenomena. If we turn our attention to the social and political consequences of monopoly, our bearings become still more uncertain. It's natural to associate concentration with political power, until you remind yourself of the political power of unconcentrated industries such as retail drugs and textiles, or that the political power of television broadcasters (hundreds of independent firms) exceeds that of the networks (three firms). It is wishful thinking that increasing the number of firms in an industry by dismembering the larger firms will reduce the industry's power to harm the public through the political process.

Because we know so little of the causes of crimes of violence, it is proper to criticize as simplistic the pat solutions (such as preventive detention) so frequently advanced. Because we know so little about the nature and sources of monopoly power, it is just as simplistic to suggest, as do the prosecution-minded lawyers of the Antitrust Division, whom the Study Group quotes with complete approval, that if we would only stop thinking so much about the problem and throw the

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book at the bastards our monopoly problem would be solved.

Even if we understood the problem much better than we do, we would not be close to a solution until we had mastered the political context within which any solution would have to be worked out. The present pattern of monopoly is a product not only of ignorance, but of interest. It is not the Washington Lawyer, a recurrent Nader villain, who shields the corporate dragons from an indignant public; it is the fact that patterns of monopoly are frequently resultants of political forces working themselves out within a democratic system that Nader and his followers have not yet proposed be overthrown. Are farmers, retail druggists, grocers, auto-parts jobbers, employees in industries threatened by imports, and the myriad other beneficiaries of a lax antitrust system riddled with economically unjustifiable exemptions to be denied the vote? And if not, how to alter the results of their self-interested political action?

It is an oddity of Nader and his followers that their critique of American society should be at once too harsh and too lenient. It exaggerates the criminality of businessmen and their lawyers but underrates the structural impediments to reform. The Nader Study Group makes things seem both worse than they are and more readily remediable than they are, and this seems to me a dangerous combination of errors.

Richard A. Posner

MR. POSNER *teaches law at the University of Chicago.*

Burning Up Our Resources—I

Nixon on Energy

A series of energy crises threaten the nation, some this summer, more in the next few years and still others in the decades ahead. Coal is plentiful but sulfurous, natural gas is clean but scarce, oil is near its domestic pumping limit and uranium is a suspect arrival on the energy scene. In any event fossil fuels are destined to power the US energy economy for many years and the domestic resources of clean fuel immediately available are limited.

Against this background of impending crisis, President Nixon delivered the first energy message any Congress has ever received from the White House. According to the President's program $3 billion in federal funds will be required over the next 10 years to develop clean energy sources. It should be noted that the federal government spent over $3 billion in the past 10 years on development of civilian power, most of it for nuclear-electric power.

The big budget item targeted in the Nixon message is the power-breeder, a nuclear reactor designed to produce economic electricity and at the same time more nuclear fuel (plutonium) than it burns. General Electric, Westinghouse and North American Rockwell are the three candidates vying to build this demonstration power-breeder. Dr. Glenn T. Seaborg, Atomic Energy Commission chairman, stated on June 4 that the new reactor would cost "between $400 million and $500 million." President Nixon announced an increase of $50 million for the machine, equaling the amount already budgeted; this added to AEC fuel waivers and support adds up to $130 million in federal funds. The government hopes that the nuclear industry and utilities will put together a package that would make up the difference.

Even before the power-breeder "demo" is funded, it is under attack by environmentalists who fear that the facility will be far from clean. Prior to the President's energy message, the Scientists' Institute for Public Information (SIPI) brought a lawsuit against the AEC to force it "to prepare a comprehensive environmental impact statement on the complete LMFBR program and also a detailed assessment of the alternative means of power generation." LMFBR stands for liquid metal fast breeder reactor, a liquid sodium cooled power-breeder most favored by the AEC as the "demo" to be built. The White House fell short of this challenge by directing the AEC to prepare a 102 statement (Sec. 102 of the National Environmental Policy Act) on the environmental impact of just the "demo." Considering the fact that other types of power-breeders are under development, it would be useful to have such statements on all designs so that the decision on the power-breeder encompasses an overall assessment of the environmental capability of the new reactors.

The big item almost left out of the President's message is oil. (See Mr. Dietsch's report which follows.) Accounting for 43 percent of all US energy and two-thirds of the energy dollar, oil dominates all other fuels. Furthermore, domestic production of crude oil, now 3.5 billion barrels per year, is nudging the limits of capacity and oil products must be imported to fill the nation's 5.3 billion barrel current annual demand. Yet nothing is mentioned about oil import policy and one senses the crisis here by the President's emphasis on tapping off-shore oil (hardly a pollution-free source) and on developing our domestic oil shales.

"About 80 billion barrels of this shale oil are particularly rich and well situated for early development," reads the message, although acknowledging that "at present there is no commercial production of shale oil." The oil shale program of the Department of the Interior's Bureau of Mines has bumped along at a maximum funding of $2.5 million annually with $11.2

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million spent in the last six years. A ton of good oil shale found in the Green River Formation in Colorado and adjoining states yields three-fourths of a barrel of oil. To supply 1 billion gallons of oil will mean excavating and processing twice the amount of coal now mined each year. Thus it's good that the message calls for an environmental (102) statement on shale oil. About 80 percent of oil shale is on federal land, and one hopes that the Secretary of the Interior will lease it so as to safeguard the taxpayer's interests – both financial and environmental.

The nation's most pressing energy need is to find additional natural gas. Here is a fossil fuel resource that is vanishing so fast that its use as an energy source will have to be curtailed in the next few years. The presidential message calls for intensification of the effort to gasify coal. The gasification of coal is technically feasible, although the development has limped along for years on a skimpy budget which only this year will top the $20 million mark for the Office of Coal Research. Our most abundant fossil fuel resource has in the past received little research and development attention – about a few percent of funds accorded nuclear power. I strongly suspect that nuclear funds for civilian power would not have been available either, had they not been virtually coattailed to the military atom. In any event coal gasification is now slated to advance to the demonstration stage with the government providing $20 million and industry kicking in half that amount. Nothing is said in the Energy Message about a 102 statement on coal gasification, although I estimate that it will take all of the US coal mined in one year to produce about half of the natural gas consumed this year.

"Energy has been an attractive bargain in this country – " states the message "and demand has responded accordingly." Indeed, the Federal Power Commission's 1964 National Power Survey observed that the 1962 price of electric energy was 1.7 cents/kilowatt hour and it aimed at 1.2 cents/kw-hr by 1980. One wonders what the 1970 National Power Survey, now in preparation, will say about the requirement for low-cost energy. Obviously, it's an economic and political impossibility to stop power growth, but should low cost energy be a primary national goal? This is only one element in a national energy policy and the Energy Message is not a statement of such a policy.

A true national energy policy would set time goals and fix the "energy mix," *i.e.* the proportion of fuels to be consumed in the light of national needs, resource adequacy and environmental compatibility. President Nixon recommends consolidating energy resource development programs under a single energy authority within the new Department of Natural Resources, which has yet to be established. This would have certain virtues, but it would be more a budgetary and administrative arrangement than a real energy policy agency. Presumably there will be no national energy policy until Big Oil decides to make one.

Meanwhile, the nation's electric energy production continues to soar and a seven-fold growth by the year 2000 has been set for the utilities. Then over half of the electric power will be nuclear and the trend is towards huge energy centers each generating 5 million kilowatts or more. The transportation hazard posed by making almost 10,000 "hot atom" shipments per year may make it necessary to process spent fuel at the power site. The Energy Message highlights the need for proper plant siting and location of transmission lines. It also urges that Americans use energy more wisely and recommends better insulation for houses and more efficient electrical appliances. But it does not recommend a ban on air conditioners, for example, or any restraints on all-electric living promoted by the utilities. Nor is there any admonition to Detroit to cut back vehicular horsepower which consumes 90 billion gallons of gasoline per year!

Skilled political chef that he is, the President has prepared an energy menu that has something for everyone. His critics cannot complain that he has glossed over the quality of our environment: "clean" as a characteristic of fuel appears in almost every paragraph. Environmentalists have not been crying in the wilderness, but they will hardly welcome the President's prime response: "Our best hope today for meeting the nation's growing demand for economical clean energy lies with the fast breeder reactor." He's putting his chips on the AEC's power-breeder as the energy source of the future.

In the showdown between nuclear and fossil fuels, opponents of the atom assert that reactors pose greater hazards than conventional power plants, and that we can make do with the fossil fuels. This is an argument of anticipation since fossil fuel fumes already pollute the environment and nuclear power is just coming on stream under tight restrictions just announced by the AEC.

The President's comprehensive introduction to the energy resource-environment must now be followed by a White House report on energy fuel needs of the future, resource availability, conversion prospects for solid fossil fuels and a comparative assessment of nuclear vs fossil fuel pollutants. Our high-energy society has in the space of 70 years burned up 37 billion tons of coal and over 80 billion barrels of oil. This massive conflagration has resulted in a growing environmental insult largely because of a lack of planning and control as America pursued the goal of low-cost power. This era is ending. That is the real meaning of the President's energy message, although you have to read between the lines to discern it.

Ralph E. Lapp

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Burning Up Our Resources – II

The Wide Reach of Oil

In his long-range energy resources program, the President put a lot of emphasis on nuclear energy; the Atomic Energy Commission reports 13 nuclear plants were ordered in the first four months of 1971, and the agency thinks up to 50 nuclear plants will be ordered over the next two years. Construction may be delayed by rows over environmental hazards, but nuclear power seems destined to supply an ever-greater amount of the nation's energy.

And yet oil men aren't too unhappy, because they control almost half the known uranium reserves in the United States, and it's uranium which drives nuclear power plants. In their rush to become "total energy companies," oil corporations have gobbled up most of the coal producers (they already controlled a good portion of natural gas reserves, gas and oil often being found together), and they're rushing into uranium. Oil companies in 1968 drilled 44 percent of uranium footage and in 1970 controlled an estimated 45 percent of uranium reserves, most of which are in the Rocky Mountain states. By now the figure may top 50 percent. Kerr-McGee Corp. (the Kerr in this oil firm is the late Sen. Robert Kerr of Oklahoma) runs the nation's largest uranium mill; others are under construction by Continental Oil (in combination with Pioneer Natural Gas) and Humble Oil, a subsidiary of New Jersey Standard Oil.

Uranium ore has to be enriched before it's used in a power plant, and today this enrichment is done exclusively in three government-owned plants, at Oak Ridge, Tenn., Paducah, Ky., and Portsmouth, O. The Nixon administration would like to sell these facilities to private industry (they were built at a cost of $2.3 billion), but the Joint Congressional Atomic Energy Committee is opposed. Some persons familiar with energy and corporate finance think only the giant oil corporations have the resources (cash or bank credit) to bid on the plants. If oil companies did acquire them, they would be in monopolistic position to pretty much set the price of nuclear-generated power, in addition to enjoying their present influence in setting the price of oil, coal and natural gas. Like oil, uranium is a protected business: imports are prohibited by the AEC, although ores are mined much more cheaply in Canada and South Africa.

Oil's "total energy" rush is of growing concern. In 1970, of the nation's 25 largest oil companies, 18 had substantial interests in oil shale (the administration wants an "orderly formulation of a shale-oil policy" on government-owned lands), 11 in coal, 18 in uranium and 7 in tar sands (another potential source of crude oil). The largest owners of coal reserves are New Jersey Standard and Continental Oil. More than half of all coal mined in the US is sold by oil companies. The oil firms defend their "total energy" concept as logical and legal diversification; they want to be prepared, they say, for the day when coal might be converted economically as a supplement to gasoline and natural gas, when oil can be extracted economically from shale and tar sands and when nuclear energy becomes a full substitute for coal and oil in generating plants. Nonetheless, S. David Freeman, of the White House energy policy staff (and one of the few Democrats in the administration), told a Senate investigating subcommittee chaired by Lee Metcalf of Montana:

"We are witnessing a major transformation of the [energy field] with far-reaching consequences that deserve intensive scrutiny. . . . The speed and scale of dominance of the independent coal industry by their petroleum company competitors raises a question of whether the public interest is being best served. Only two of the largest coal companies are independently owned any longer. The remaining eight, which account for 42.9 percent of coal industry production, are owned by oil companies or large industrial concerns with other stakes in the energy field. These same eight companies owned 67 percent of the new mines opened in 1970."

The National Economic Research Association, a private consulting firm, says "the acquisition by oil companies across the total energy spectrum may be viewed as classic horizontal integration on a scale comparable to the formation of the trusts in the latter decades of the 19th century." Sen. Philip A. Hart (D, Mich.) says "primary fuel production, once clearly divided on the product lines of gas, oil, coal and uranium, is becoming the domain of the oil industry. Oil companies have acquired so many large independent coal companies that the remaining ones are rarities. Nuclear energy, which once afforded new hope of competition, also is the stomping ground for oil." Sen. George Aiken (R, Vt.), says "when you control energy then you control the nation. I see this as a very serious threat to political democracy."

Prodded by Hart and Rep. Joe L. Evins (D, Tenn.), the revitalized Federal Trade Commission is beginning to study the anticompetitive consequences of concentration in energy. The various fuels compete with each other, thus making (in theory at least) for lower consumer prices; decreasing competition, of course, makes for higher prices. The FTC also has ordered Kennecott Copper to sell off Peabody Coal, acquired in 1968. The FTC staff now is putting together cases against a number of coal takeovers by oil companies, including Continental Oil's 1966 acquisition of Consolidation Coal, the No. 1 producer. Senator Hart plans further hearings into the antitrust aspects of the "total energy" moves by oil, and Sen. John Sher-

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man Cooper (R, Ky.), would like the Senate Interior Committee to probe not only coal shortages (which a few critics link to deliberate mine opening slowdowns by parent oil corporations), but the mushrooming energy concentration. The American Public Power Association has urged the White House to lead an anti-trust investigation. Fifty-three senators have recommended creation of a national commission on fuels and energy. Others want a new look at the fragmented federal supervision of energy resources. Power brownouts and blackouts, undoubtedly coming again this summer, will spur further investigations.

Robert W. Dietsch

TV Commercials: The Right of Rebuttal

Tanks but No Tanks

by Thomas Asher

The Federal Communications Commission has dealt a stunning blow to public interest groups who seek to refute what they consider fraudulent or injurious claims made by advertisers on radio and television. The commission ruled on May 12, 1971 that environmentalists have no right to respond to an oil company's advertised assertion that use of its gasoline will give "clean mileage." If not overruled by the courts, the decision effectively places commercial advertisements outside the requirements of the "fairness doctrine," thus permitting broadcasters to make extravagant ecological and other social claims without incurring any obligation to present opposing views.

The decision concerned a TV campaign by Standard Oil of California for its Chevron gasoline. Ads depicted a large balloon being filled with the black exhaust from an automobile and a car engulfed in a bag of black smoke. Then the following message: "I'm Scott Carpenter. We're attaching a clear balloon to this car to show you one of the most meaningful gasoline achievements in history. The balloon is filling with dirty exhaust emissions that go into the air and waste mileage. Now Standard Oil of California has accomplished the development of a remarkable gasoline additive, Formula F-310, that reduces exhaust emissions from dirty engines. The same car, after just six tankfuls of Chevron with F-310; no dirty smoke, cleaner air. A major breakthrough to help solve one of today's critical problems. . . . Cleaner air, better mileage-Chevron with F-310 turns dirty smoke into good, clean mileage. There isn't a car on the road that shouldn't be using it."

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The ads were criticized by environmental groups, agencies of two state governments and the Federal Trade Commission, which filed a formal complaint against Standard Oil and its advertising agency, Batten, Barton, Durstine, and Osborn, charging misrepresentation. Citing the state agency findings, two law students, acting on behalf of the Boalt Hall Environmental Law Society, demanded free time to reply on the five Los Angeles (KNBC and KNXT) and San Francisco (KGO, KRON, and KPIX) television stations which carried the ads. Turned down, they filed a formal complaint with the FCC relying primarily on the "fairness doctrine," under which a broadcaster is required to present all sides of controversial issues of public importance, even if the "other side" must be given free time in order to get its views aired.

In ruling that the "fairness doctrine" did not apply to the Chevron advertisements, the FCC placed the commercial advertiser in a preferred position vis-a-vis all other persons, including broadcasters themselves, who use the broadcast media to disseminate views on public issues. After quoting its earlier *Friends of the Earth* decision to the effect that "a commercial could deal directly with an issue of public importance" and that, if it did, "the fairness doctrine is fully applicable," the commission stated: "The question here is whether the Chevron ads come within that description. We do not believe that they do. The Chevron F-310 announcements do not argue a position on a controversial issue of public importance, but rather advance a claim for product efficacy. It is true that this claim relates to a matter of public concern, but *making such a claim for a product is not the same thing as arguing a position on a controversial issue of public importance.*"

The commission had before it two studies by state

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agencies (California's Air Resources Board and the Hawaii State Senate's Consumer Protective Committee) which sharply questioned Chevron's environmental claims. The California May 1, 1970 "Report of Evaluation of F-310," examined emissions from 19 cars which had been run on other brands of gasoline and then were operated on six tankfuls of a gasoline containing F-310. It found that "a comparison of the average emissions at the first and last test for the 19 cars shows little change for any of those pollutants measured (hydrocarbons, carbon monoxide and nitrogen oxides)."

The report to the Hawaii Senate, dated April 23, 1970, found that even the tests run by Standard Oil's retained research laboratory "do not warrant the advertising claims made by Chevron." The dirty exhaust came from an engine which had been intentionally "dirtied up." Chevron's environmental assertions were categorically condemned: "Your Committee concludes that the advertisements of Chevron, cleverly designed to capitalize on the current public concern regarding air pollution, do a disservice to the public by making exaggerated and misleading claims as to the effectiveness of F-310. While your Committee applauds any step forward in reducing air pollution, it likewise deplores exploitation of the legitimate and appropriate public concern about this problem."

Only one television station, KPIX, concerned that the ads "might mislead viewers," required Chevron to superimpose the following words over the video portion of the ads: "Very dirty engine purposely used to provide severe test"; "Only dirty engines emit black smoke"; and "Degree of improvement in your car depends on condition of engine."

The FCC, however, deemed the evidence that the ads were misleading to be irrelevant: "That the claim is alleged to be untrue or partially deceptive does not change its nature. The Chevron advertisements do not claim there is no danger in air pollution or that automobiles do not contribute to pollution but assert, instead, that use of the sponsor's product helps to solve the problem. It would ill suit the purposes of the fairness doctrine, designed to illumine significant controversial issues, to apply it to claims of a product's efficacy or social utility. The merits of any one gasoline, weight reducer, breakfast cereal or headache remedy – to name but a few examples that readily come to mind – do not rise to the level of a significant public issue."

What the commission has drafted is a blueprint for one-sided arguments by corporations on major questions of public concern; so long as the argument is part of a sales pitch, no response will be required. Thus, if the oil companies avoid directly stating that burning gasoline in automobile engines does not pollute the air and carefully avoid saying that their particular brand of gas will stop pollution, they are free to use the public airwaves to carry on a misleading monologue.

Commissioner Nicholas Johnson, the only dissenter in *Chevron*, quoted at length from the ads to demonstrate that they "practically shout that they are dealing with a controversial issue of public importance." For example: "I'm sure you're as concerned as I am about the problems of controlling our environment. And one of the most critical is the need for cleaner air. . . . These are some of the important steps Standard Oil has taken toward solving a *growing national problem*. Use Chevron gasolines with F-310. You'll be doing your part toward cleaner air. Scott Carpenter for Standard Oil."

The implications of the *Chevron* decision are especially unsettling for advocates of corporate responsibility when considered along with two August, 1970 FCC decisions, *Business Executives Move for Vietnam Peace* ("BEM"), which I represent, and *Democratic National Committee* ("DNC"). In each case, a private organization sought to *purchase* time from broadcasters for the purpose of presenting its views on important controversial issues. They were turned down by the broadcasters. The reason advanced by Washington DC radio station WTOP for refusing to carry BEM's antiwar ads was that: "It is the policy of Post-Newsweek Stations' radio and television stations not to sell spot announcement time to individuals or groups in order to set forth a point of view on any controversial subject of public importance."

The FCC sustained this position and said that neither the First Amendment's guarantee of freedom of speech nor the fairness doctrine requires that broadcasters sell any airtime to persons wishing to speak on nonmercantile matters: ". . . it is within the licensee's judgment to determine the format for presentation of controversial issues and all other facets of such programming."

As in *Chevron*, Nicholas Johnson was the sole dissenter. Appeals in both cases are pending before the US Court of Appeals in Washington.

The practical effect of the broadcasters' power to choke off public interest voices is illustrated by Common Cause's recent experience, when it sought to buy TV time for a half-hour rebuttal of the administration's Indochina policies, "The People Speak Out on the War." All three major networks carried each of the President's messages defending his policies. But Common Cause was told to look elsewhere for a platform. ABC would not sell "time to private organizations or individuals for discussions of controversial issues." CBS was more inventive: "a policy of selling time to partisans would in our view necessarily unbalance the manner in which issues are presented. . . ." Common Cause finally did manage to purchase time

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from 65 independent stations in late May.

If Common Cause was unable to buy network time to answer the President on the war, is it likely that consumer and corporate responsibility groups will have any more luck if they want to challenge commercial enterprises who provide commercial broadcasters with their bread and butter? It is improbable that a Ralph Nader attack on radio's and television's biggest commercial customers could scare up even 65 commercial stations. So the well-heeled corporate interests will monopolize the airwaves with their ads on the virtues of their products and themselves, and public interest advocates will be lucky to get an occasional refuting or disputing word on news programs.

There are three rays of hope. The first is the FCC's expectation "in the near future to initiate a proceeding of broad scope to consider every facet of our fairness doctrine and related public interest policies, including the vexing problem of access that has been on the periphery of many of our decisions in these areas. . . . Such a proceeding will permit a thorough re-examination and re-thinking of the broader issues suggested by this and other recent cases before us to determine whether some modification of the fairness doctrine and related policies would better serve the public interest."

The second is the Federal Trade Commission's announcement of June 10 (sharply criticized by Mr. Nixon's communications director, Herbert G. Klein) that it will, over a period of time, order major industries to substantiate certain claims for their products. At present, according to the FTC, advertisers are not meeting "the public's need for this information . . . [and] knowledge that documentation or lack thereof will be made public will encourage advertisers to have on hand adequate substantiation before claims are made."

Finally, the FTC staff is seeking orders against Standard Oil, Coca Cola Co. and other firms charged with misleading advertising which would require that their future ads disclose the fact of an FTC finding against them.

None of these developments promises to halt the barrage of one-sided corporate claims on radio and television, however. The FTC's disclosure requirement will take a long time to implement and will only make deceptive advertising claims more visible. Orders like that sought against Standard Oil, if the commission ever does issue such an order, will come months or years after the offending ads were broadcast. Finally, the FCC's promised scrutiny of the Fairness Doctrine is unlikely to result in any rule change prior to the 1972 elections and, with the present commission membership, may make thinks worse, if that is possible.

Success or Failure?

China's 70,000 Communes

by Edgar Snow

"Agriculture is the foundation and industry is the leading factor" has been the guiding principle of Chinese economic practice since 1960. At that time of near-famine and general crisis China's leaders abandoned overemphasis on heavy industry and underinvestment in agriculture. Setting aside borrowed Soviet paradigms, they "let industry serve agriculture," and aimed to develop the hinterland in a better balance between town and countryside.

Agricultural communes cover close to 90 percent of the cultivatable land. All of it is collective property except for 5 to 7 percent still held in garden plots privately owned by the peasants. Not more than 10 percent is in nationalized or state farm enterprises "owned by the whole people." China is of continental proportions – about the size of Europe and occidental Russia combined – but two-thirds of it is largely mountainous or wasteland or desert. Reclamation still largely depends on hand labor and the entire planted area is

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EDGAR SNOW *recently revisited mainland China to gather information for Western publications, the first American to do so since the cultural revolution. This is his fifth report. The first four articles ("Talks With Chou En-lai," "Aftermath of the Cultural Revolution," "Population Care and Control" and "the Army and the Party") appeared in* The New Republic, *March 27, April 10, May 1 and May 22. US and world copyright, Edgar Snow, 1971.*

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only some 13 percent of the total surface. Cultivated and thickly populated regions still lie mostly in the eastern half of China. In densely crowded deltas the available land is less than 700 square meters per person, but double cropping and triple cropping have become common, with greater use of fertilizer, irrigation, hybrid seeds and other better means.

China's 1800 counties are divided into 70,000 farm communes, which are subdivided into 750,000 "brigades." A brigade may hold several or more hamlets or villages organized as "production teams." The brigades are the basic collective land ownership and accounting units. Here about 550 million people must feed themselves and the cities and county towns, produce a surplus from some 100 million hectares planted in grain, and from 20 million hectares devoted to cotton, tea, edible oils, tobacco, ramie, sericulture livestock and other "cash crops" – sufficient to bring a profit to themselves and government purchasing monopolies, *and* accumulate capital savings to finance their own modernization, with minimal help from the state. *On the steady growth of wealth under intelligent management and zealous labor of the communes depends the whole future and success or failure of socialism in China.*

During three visits to the People's Republic since 1960 I have seen more than 30 communes, from the far north, near the Siberian frontier, to Yunnan, above Vietnam. This time I saw something of 11 communes, including three I had known in 1960, which I asked to revisit. The "revisits" revealed improvements in cultivating methods, irrigation works, electrification, mechanization, land reclamation, housing, and small industries – much more than in higher cash incomes. After eight years of agricultural growth most peasants now believe in the reality of the "five guarantees" (promised by Party directives): adequate food, shelter and clothing, fuel, medical care and schools for their offspring, and provisions for old age.

"Adequate?" China's communes are still very poor by material standards of Western landowning farmers. They are adequate, however, beyond the former dreams of the landless and perennially overworked, hungry illiterates who were most of the peasants in prerevolutionary China.

The poorest commune brigade I saw in 1970 was in Pao-an (now called Shih-tan) deep in central Shensi province, in northwest China. There the average *gross* income per household was the equivalent of less than $80 a year. (That was more than double the sum a decade ago.) By contrast, a "rich" suburban commune was Horse Bridge, with a population of 36,000 and about an hour's drive from Shanghai. In a mixed grain and cotton growing area, annual gross output value in 1970 at Horse Bridge was about $720 per household.

Out of the brigade's *gross* income, state taxes take 3 to 8 percent, included in operating expenses of about 40 to 50 percent. From 15 to 20 percent of the grain is earmarked for quotas delivered to the state at fixed prices. *Net* income includes industrial output, livestock and "cash crops." From 10 percent to 25 percent or more is set aside for the public accumulation fund for investment in equipment and improvements, welfare and loan funds, medical insurance, and old age care. Of this amount 80 to 85 percent is retained by the brigade while the balance goes to commune investment and overhead.

The net income at Horse Bridge Commune in 1969 was about $102 per worker-member and the average household (4.6) units netted about $274. (That does not include members' share in collective investment.) In a nonmechanized Pao-an brigade, where taxes apparently took only about 3 percent of the gross, the net household income seemed to be one-third that of semi-mechanized Horse Bridge. In the latter, commune and brigade industries – boat building, construction materials, machinery, electric transformers, etc. – accounted for more than 25 percent of combined output value. That is exceptionally high, and a still distant national goal, but many communes now own machine-making, mini-tractor, cement and small fertilizer plants which meet their own needs on the road to modernization.

Converting *yuan* into dollars, as I have done above (at the official exchange rate, 2.40 yuan equals one dollar) can be quite misleading. In the Chinese farm-commodity economy the peasants are paid mostly in grain. They sell their surplus, over and above their personal needs – from one quarter to one half their share – at state market prices. Their cash income in yuan has a much greater purchasing value than the nominal exchange equivalent abroad, as I have shown in prices quoted earlier.

Many communes now breed their own fish in newly made reservoirs and canals, and part of the catch is in "free distribution" to member families. Vegetables are either home grown or so cheap as to be minor budget items. "Private pigs" (bred on family-owned plots) now add $10 to as much as $60 per year to many household incomes. The family may prefer to eat pork frequently and get less cash income. (In former times the average peasant tasted meat only two or three times a year.) Commune families own their homes and have no rent to pay, but they cannot sell, or rent to others. And the greatest sector of the commune's wealth is nonliquidable – the member's share in collective capital investments of savings in farm improvements and in land ownership.

Wages or shares in the collective income are now decided by the individual's estimate of value of his own work points – an honor system – which is then accepted or reduced or raised in judgments made by his own work team. As overclaims denied by one's

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neighbors mean a loss of face the tendency is understatement. Work teams choose their own leaders, production teams likewise, and the brigade leadership now consists of a revolutionary committee the majority of whom are farm workers, able to check party cadres' making arbitrary decisions, as was often the case before the cultural revolution. At brigade and production team levels, management and allocation of funds are semi-autonomous, within the lines set by overall commune and state planning. Women theoretically have equal voice in proportion to their labor contribution, which is not much less than that of men, but in practice they are still much underrepresented.

Benefits commune life has brought to the peasant are not all to be measured by a full belly, bodily warmth, better dwellings, good bedding, thermos bottles, bicycles, or a bit of cash. If it means no more than that, the revolution will fail, in the eyes of Mao Tse-tung and his "activists." Physical transformation of the ancient Chinese earth by collective toil for the benefit of the group and not just for private gain – in a land which was second to none in the pursuit of personal aggrandizement and the devil take the hindmost – is itself so radical a concept and practice that it cannot but create a new philosophy and "world outlook."

Nowhere did I see a more satisfying example of Mao's axioms, "out of bad things can be made good things" and "fight self and serve the people," than in the worn and torn hills of northern Shensi, when I returned to the seat of Pao-an county. In 1936 I first entered Pao-an when it was the then "Red Army" base after the end of the Long March (1935-36). Mao Tse-tung had his headquarters in a stone cave, and the Red Army academy, likewise housed, was headed by General Lin Piao – today Mao's constitutionally designated "successor." Civil war was still going on. Pro-Red nationalists led me across no-man's land, and it then took me three days to walk over the hills and ravines, by devious mountain paths, from Yenan to Pao-an.

No foreigner had been seen in Pao-an since 1945, and very few since 1937, when Mao moved his "capital" to Yenan and the first Nationalist-Communist civil war ended in a united front against the Japanese invaders. A motor road now reaches into Pao-an, which lies about 120 kilometers northwest of Yenan. The roadless badlands I had known were steep and interminable unkempt hills divided by ravines, dry except in flood, with only here and there patches of grain and tumbledown caves. The few peasants wore rags, their untutored urchins ran naked, and salt, needles, thread, and matches were precious commodities. They could scarcely feed themselves when the weather was kind, and they starved when it was not. Guerrilla armies who found refuge here had to open up abandoned or waste land and grow their own crops, between battles – that was the beginning of transformation. For the countryside always had a better potential – for corn, millet, pasture land and orchards – than first met the eye. Part of that potential has now been realized, and the regenerated green-clad hills and narrow valleys are often breathtakingly beautiful.

The motor road, part of a network which leads on into Inner Mongolia, was built for trucks, jeeps and carts. The appearance of a passenger car brought all within hailing distance to greet us, and the quiet hills seemed suddenly to sprout smiling children to cry, "Long Live Chairman Mao!" as we drove past. Cut from steep yellow clay and occasional stone cliffs, which rose precipitously from a deep ravine, the road had slipped away here and there, under recent rains. In such places work teams had been mobilized, by radio, to do quick repair jobs. They simply dug a layer or two deeper into the loess-soil roadbed, and used the earth to strengthen the retaining walls.

As the valley widened we began to see the results of the land reclamation – hills with their tops cut off, garden-like terraces making giant steps down impossible slopes, new rock walls encroaching on the sprawling river course, and rank upon rank of poplars and willows planted to bring the stream under firm control and win precious new valley land. Grazing the hilltops were frequent herds of goats and sheep – three to a household, on average, I was told.

Fortunately the earth here is worth the torturous effort. "Loess" land is very rich and deep topsoil, blown down from the Gobi desert in centuries past. On such slopes bulldozers would be useless, and there are none; here all is done by hand. To make just one such man-made terrace, covering one-third of an acre of useful farmland, I learned, required 20,000 baskets of earth carried on people's backs. Multiply that by millions and you get an idea of the toil involved in reaching a total of about 12 million hectares of cultivatable land created in China since the fifties. (That is less, however, than the acreage destroyed by overgrazing, erosion, and pollution in the United States during the period when B-52s and other defoliating agents were busy making deserts in Indochina.)

Reclamation work here is as difficult as at Ta Chai, the famous commune in neighboring Shansi province, now hailed as a national model. "Learn from Ta Chai," said Mao Tse-tung. After 25 years of backbreaking toil, leveling hills, and building many miles of stone retaining walls to hold reservoirs, Ta Chai brigade now produces about eight metric tons of grain per hectare. (Its peasant chairman, Ch'en Yung-kuei, is a member of the Party Central Committee, but still works in the fields.)

Equally impressive was the story of the prosperous commune brigade I saw, more than a thousand kilometers east and north of Pao-an, and not far from the sea, called Sandstone Gulch. The old inhabitants were

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a few sans-culotte families who formerly descended on Tangshan or Tientsin every winter to beg coppers or garbage until they could return to the Gulch. After liberation, and with minimal help from the state – they began with 17 donkeys – the original 78 families year by year dug into the sandstone hills to plant trees and crops. Going very deep, they found water and excavated reservoirs stone-lined by nature.

Last year Sandstone Gulch's now 127 households harvested 225 tons of grain and 115 tons of apples, peaches, pears, grapes, dates, and walnuts from their once-barren ridges, now held together by woodlands and terraces. On just one hill 100 men spent 10 days to carry earth to and create only *one-sixth* of an acre. By such means Sandstone Gulch now has more than 200 acres of semi-irrigated land which by 1969 enabled them to set aside $80,000 for capital investment improvements. Their stout houses of many-colored stones, dug up to make wells and pools, and their clean stone streets, are among the best peasant dwellings in China.

One more example. In Shanghai communes – the Shanghai Special Administrative area includes ten rural counties – I found brigades digging trenches three meters deep in which to bury huge cement pipes, connected by pumping stations, to replace the surface canals. They thereby add about eight percent to their precious tillable acreage. A three-year labor project, made by slack-time brigade labor, using brigade-made cement pipes, they claim that it will also serve as emergency air-raid shelters. . . .

We reached Pao-an in about two hours and found the little valley town crowded with more people than I ever saw in one place (apart from troops) in all my months of travel hereabouts in 1936. Then there were scarcely a hundred civilians living in the decrepit county seat; now it held 3000. The Reds had used a tiny family temple for their mass meetings. Now a theater, with 1000 seats, advertised *The Red Lantern*, a new-style Peking opera. There had been no industry at all; now there were 13 handicraft works, a machine repair shop, and a power plant. In 1936 I saw only one store in the whole county. Now a main street was lined with miniature shops. In a small department store we found much the same variety of goods sold everywhere, plus a large wall poster with detailed instructions about how to prepare – for air raids.

Li Shi-pin, vice-chairman of the revolutionary committee, welcomed us to a new government headquarters of small clean buildings and guest houses, set beside the river. An open-air feast was spread and we ate with cadres and farmers who had helped produce it: huge ears of corn on the cob, delicious yams, hot-spiced chicken and pork, rice done Shensi style, and a variety of luscious local fruit.

There is no space here to review the long and sometimes bloody struggle to collectivize rural China – from land confiscation and uneven division into small plots (1950); to mutual aid teams (1950-51); to simple cooperatives, with deeds still privately held (1951-53); to advanced cooperatives, when deeds were burned and villages pooled their land and tools (1955-57); and on to the communes, in 1958, which brought village groups into brigades, to undertake large joint projects – canals, roads, dams, industries, schools, hospitals, etc.

In each phase rich peasants arose and "the spontaneous desire to become a capitalist" was fought with the support of the poor-and-middle-peasant majority. Old landlord-usurer mentality revived, sabotaged, was put down, arose again, and was beaten back by ceaseless propaganda and organized indoctrination. But mainly it was suppressed by demonstrating, to a bankrupt peasantry in a country with less than half an acre of useable land per person, that there was no other way to sustained growth beneficial to all than by building collective capital through ceaseless, self-reliant, collective labor.

The great crisis of faith and practice came during the "hardship years," 1959-61. Party cadres leading both the communes and the Great Leap Forward overreached themselves in zeal, haste, and inexperience; and unprecedentedly bad weather then descended before adjustments could be made. Worse than the natural catastrophe, Soviet Russia in 1960 suddenly tore up hundreds of contracts for industrial and public works, withdrew all her advisors and even spare parts and factory blueprints, and cut China adrift.

To meet the emergency the party made corrections and offered mild concessions to private enterprise. The commune superstructure was reduced in size and power, and production teams and brigades assumed fuller initiative. It took four years to pick up the pieces of the unfinished industries abandoned by the Russians, and to make up losses in grain output. Some party cadres had experimented with a system of greater bonuses and free trade in sidelines, production quotas fixed for individual families, and even promises of private ownership of land reclaimed for crops or orchards – a last chance for the rise of a kulak owning-class in league with an urban elite.

So Mao Tse-tung saw it. In 1963 he responded, first in the army, and then in the communes, with a Socialist Education Movement to reverse "the spontaneous desire to become a capitalist." When the Great Proletarian Cultural Revolution burst upon the cities in 1966, the communes were already largely purged of those cadres who had pushed what is now called the "Liu Shao-ch'i line" of individual gain at the expense of the group. The battle was then joined between the urban "capitalist-roaders" versus the Marxist line – Mao Tse-tung Thought – of uncompromising building for an equalitarian society.

Agricultural economy was less affected by the cultural revolution than industry, and rural society gained

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by heavy injections of urban-educated youth, talent, zeal and services, aimed to erase differences between city and village.

By 1970 China's grain output topped 240 million metric tons, an increase of about 230 percent since 1950. Over all China the crop averaged only 2.4 tons per hectare, but communes with yields up to 8 tons or more per hectare were not uncommon. Two whole provinces – Chekiang and Kwantung – for the first time averaged 7.5 tons per hectare, well above "green miracle" results reported abroad.

China is today self-sufficient in grain, however, and future growth will increasingly emphasize "cash crops" for export, to finance rural industrialization and mechanization. With the foundations well laid now there are, as a doctor I quoted earlier remarked, "broad vistas in the countryside." Countless difficulties lie ahead, but the "vistas" are real enough, as town and city meet to join farmer, worker and intellectual in a one-class society, to keep China fully occupied with peaceful works – carried out in a revolutionary way – till the year 2000.

Who'll Buy Bayh's Violets?

The Young Man from Indiana

by Paul R. Wieck

Some months back, Claude Pepper golfed with Ed Muskie. Between putts, he pressed Muskie to name as his Florida manager Miami Mayor David Kennedy, whom Pepper thinks is one of the state's ablest young leaders. Weeks passed. Then Pepper lunched with Mayor Kennedy, who explained his reasons for bypassing Muskie to back Birch Bayh. Muskie didn't spend that dime on a telephone call; Bayh did and more. In February, a coterie of hopefuls, including Muskie and Bayh, traveled to Miami Beach to woo the aging chieftains of the AFL-CIO. A Bayh operative dropped in on the mayor. David Kennedy warned his caller, gently, that he "leaned" toward Muskie; Bayh's man knew that but persisted. Kennedy said he didn't know Bayh; that could be taken care of. The mayor was asked to join the Indiana senator for the remainder of Bayh's stay in Florida. Day after day, they rode in the car together. Several weeks later, Kennedy and his wife were invited to Washington and furnished airplane tickets. Not until it was time for them to return to Miami did Bayh's men move in for a firm commitment, and got it.

Birch and his boys have done more than hustle. They have followed a carefully written script that includes attention to small details, shameless flattery, more than a measure of gall, and sheer energy. It's acted out by a tightly knit group of young men, modish in dress, professional in technique. They have an *esprit de corps* that is contagious. One of the images of Bayh in action is of his leading an aide aside by the arm, peering intently into his face and quietly exchanging a bit of intelligence. Tales of the latest coup are told and retold, along with the latest gossip about still another Muskie gaffe. For to succeed, Bayh's campaign requires an inept performance at the critical point by the front-runner. Because Muskie failed to use the telephone Bayh is so fond of; because Muskie's legion of operatives were falling over each other at the very moment Bayh began sending his small, hand-picked crew out on the road; because, at the right time, doubts about Muskie began to surface on all sides; because of these things and more, a 43-year-old senator from Indiana has been able to give a semblance of reality to his and his wife Marvella's hopes.

Presidential sweepstakes resemble the race in "Alice in Wonderland," where there was no "one, two, three and away" but "they began running when they liked and left off when they liked." If one were to pinpoint a time when Bayh began running, January of 1970 would be as good as any. That's when a handful of businessmen in New York City – they're now referred to as "certain people" in Bayh circles – said they'd put up the cash to test the water. One hears the figure $250,000, but Bayh's manager won't verify that.

Bayh's first step was to assign his 37-year-old administrative assistant, Robert Keefe, to draft a campaign plan. Keefe is highly competent. It's said that when Robert Kennedy was elected to the Senate in 1964, his new administrative assistant visited the assistants of the other 99 senators to pick up helpful hints on how to operate an office. After making the rounds, he concluded Keefe's office operation was "the

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best organized to serve constituents." The widespread respect for Keefe, combined with doubts about Bayh's competence to take over at 1600 Pennsylvania Avenue, led one astute student of politics to comment that the campaign is a "classic case of the agent being more formidable than the principal."

Keefe singled out 23 "priority" states which, totaled up, will have a majority of delegates to the 1972 convention. Of these, 16 are primary states. California and Florida are near the top, if not sharing the top rung. To carry out the first phases of his strategy, in the fall of 1970 Bayh winged his way to California three times and campaigned for state legislature candidates. He's been back five times this year and is scheduled again in September. He made his first big splash in January when, along with Muskie and McGovern, he spoke at the Democratic state central committee meeting in Sacramento. It is generally agreed Bayh did well, though he stirred the party regulars more than he did the storefront people who were already signing up with McGovern in droves.

Bayh's agent for that vast stretch from the Mississippi to the Pacific is Verlin Nelson, an Iowan in his early thirties. Outgoing, handsome, a seasoned butt patter, Nelson learned the national scene as a troubleshooter in the McCarthy campaign of 1968. He was then on the ADA payroll. On a recent trip to California, Nelson gave two or three days to state Rep. Mervin Dynmally of Watts, a young "comer." He sought Dynmally's advice on scheduling. Two or three people Dynmally likes were fitted into Bayh's schedule on his next trip, and Bayh missed no opportunity to say, "Merv Dynmally's a good friend and one of the best guys in California politics." Dynmally has reciprocated by sending Bayh mailings to black and Latin newspapers on his own letterhead.

Why would Dynmally, a force in the black community, be attracted to Bayh? Nelson explains it this way: "Bayh's first real talk with Dynmally was after the Sacramento speech. Merv was brutally frank about what he'd have to do. Merv made no commitment." But his advice was followed, and a month later he was in Washington and had a half hour with the candidate. The friendship has ripened and Bayh has reaped reams of publicity from it in California.

Even more attention has been given Bayh's friendship with Speaker of the California Assembly Robert Moretti, a Notre Dame graduate (Bayh did his undergraduate work at nearby Purdue). Moretti isn't signed, sealed and delivered, but he said on Los Angeles' noted "Newsmakers" show that he'd like to see Bayh nominated. The mere possibility that Moretti, who is openly maneuvering for a shot at the California governorship in 1974, and Dynmally, who has enough power to carve out one of the state's new House seats for himself if he chooses, are flirting with Bayh's candidacy gives it credibility and exposure.

Bayh's initial contact is often on a "one-to-one" basis. He excels at this, particularly with men his own age. Once such a friendship, as distinguished from a commitment, is established, Bayh's men ask the contact to bring in 25 to 30 key people from his own circle for a casual, closed-door "free-for-all," usually in a hotel suite. Once the candidate has left, the agent makes a strong pitch for support, pocketing commitments on the spot. Right now, the concentration is on California, Oregon, Nebraska, Florida and Wisconsin. Prominent young legislators, labor leaders, aides to key officeholders, farm leaders, students are being approached. No detail is overlooked.

To do this well, you have to have a cooperative candidate. The story of how Bayh and eight aides worked the reception for Gov. Pat Lucey of Wisconsin when he was inaugurated in January illustrates just how cooperative Bayh is. A system of hand signals – a tug of the ear, a jab at his tie, a quick pat of his hair – was used by Bayh to tell an aide to pick up whoever he was shaking hands with as they left the reception line. In that way, Bayh worked the whole crowd. But it doesn't always succeed. At the Jefferson-Jackson Day dinner in Milwaukee, a student from Madison was picked up as he left the reception line by Jerry Udell, an Indiana product and Bayh's man in the Midwest. Udell courted the young man for some weeks, finally taking him and his wife to dinner. Meanwhile, the student found out a tug on the ear was the signal in his case. He backed off.

In Tallahassee, Florida's legislature has been playing with a law that would move its presidential primary up to March 14 – the same day as New Hampshire's. Bayh has his eye on the Florida primary, partially because it's G. Harrold Carswell's territory, but also because it could be a better "early primary" for the Hoosier lawmaker than New Hampshire's. Bayh's Southern agent – Clarence Martin, who came up from Louisiana as a Kennedy man in the early sixties and gravitated toward Humphrey in the latter part of the decade – found a willing ally on the staff of Gov. Reuben Askew. The goal: get the candidates listed alphabetically on the primary ballot. And that is what the lower house of the legislature did.

Just as Bayh is careful to boost a Dynmally or a Moretti, he does the same for his regional political operative. Mark Shields, a top aide of Ohio's Gov. Jack Gilligan, made note of this at the recent $500 per plate Democratic fund raiser in Washington. Ohio was heavily represented, dozens of donors accompanying Gilligan to the festivities. Bayh worked every table. And when he made the rounds of a whole nest of Ohio tables, Udell was at his elbow, sharing the introductions and establishing his bona fides with the dozens of money men around Gilligan.

Contrast this with a Muskie performance at the

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same dinner, related to me by a friend who witnessed it. Muskie, in table-hopping, came upon a Democratic state chairman wearing a Humphrey tie clasp. Looking down, he said in a somber voice: "Why are you wearing that? That's all over." The startled chairman replied: "But Senator, you were his running mate." Muskie replied, before moving on: "That's all in the past. I can't understand why anyone would wear anything like that."

The highly personal nature of Bayh's campaign is illustrated by his handling of the power brokers. Take Chicago's Mayor Richard Daley, who is once again expected to exercise an inordinate influence over the decision of at least a majority of his state's huge delegation. For the moment, Udell says, they're cementing good relations with people who have some influence on "his honor." Bayh misses no chance of going into Illinois to speak to large party gatherings.

Another kind of power broker is Gov. Gilligan, the guiding spirit of Ohio's revived Democratic party. Like Lucey of Wisconsin, Gilligan has an "open door" policy toward all candidates, and Bayh was one of the first through the door. But he's also courting several key Democrats from large population centers in Ohio and privately claiming the support of at least two of them. As Jim Nicholson, his campaign manager, explains it, the Bayh camp is "trying to get a cross-section of people involved to the extent we can without selling our souls. We're not after power blocs exclusively. We're trying to say to a cross-section that the only way the country can get straightened around is for a lot of us to work together. There are some people who are nothing but power brokers but they're fewer and fewer. I don't think we want a power broker working for us who would demand things we might not want to do." And, he adds, "there are people who are issue-oriented and still represent power blocs," such as leaders in the black community or urban activists.

Bayh has benefited from the word that spread rapidly through the Washington political community this spring, that his campaign was being adequately financed. "Where's he getting it?" Labor money, some say. Ross Perot, the Dallas computer king, say others. Bayh's people aren't saying. "Wait a few months," Nicholson advises. At present, the only name they'll mention is Milton Gilbert, a New York City manufacturer who holds a $250,000 note from the Humphrey campaign and is now dedicated to Bayh. They deny getting labor money, a believable disclaimer, not because they say it but because a commitment of funds to a dark horse at this stage would be out of character for organized labor. An incumbent senator with a good labor record might get early help, but the bulk of labor's presidential money is saved for the big event.

Bayh's early financing from New York City didn't come from the fashionable, upper East Side celebrity circuit that shelled out so heavily for McCarthy in 1968, nor from the wealthy regulars Arthur Krim taps so effectively every four years. It has the look of speculative money from a coterie of wealthy businessmen willing to gamble on a promising young midwestern Protestant with the right liberal credentials. Milton Gilbert has presented the senator to his own friends. Some are familiar names, like R. Peter Strauss, the radio station owner. Others, like Queens realtor Nat Kalikow, are politically unknown. The circle has been gradually expanded over the last couple years through private gatherings at which the men with money can get to know their investment.

Besides New York, the Bayh camp says it's picking up cash in Indiana, Florida and California. By late spring, Bayh had 20 or more persons in his downtown headquarters, some 35 to 40 on his Senate staff and a sprinkling of men in key primary states "getting not much more than expense money." His downtown headquarters is spacious enough to have provided sleeping space, albeit in corridors and closets, for 300 demonstrators who came to Washington for the April 24 march. It's nicely carpeted and furnished. All of this, plus incessant traveling (a lot of it in private planes donated by Indiana friends) will boost expenditures to well over $250,000 by the end of the year, probably double or triple that amount.

The candidate loves to mingle in a crowd, seizing an elbow here and there, tossing a shoulder punch, eyes flashing, schoolboy smile at work. He's given to squaring off or giving the stiff arm on a public sidewalk. Robert Kennedy is said to have remarked after one of those shoulder jabs: "If that . . . does it again, I'm going to punch him in the nose."

One never forgets that Bayh's fraternity (Alpha Tau Omega) named him their national "Man of the Year" when he was winding up a successful senior year as student body president at Purdue. I traveled with him to Indianapolis one Friday morning by commercial airliner. Bayh was going over campaign details with Nicholson and working on the speech he was to deliver at the Jefferson-Jackson Day Dinner in Milwaukee the next night. About a half-hour out of Washington, the stewardess brought my breakfast. On the tray was a small card with a note scribbled on it: "Welcome to the Indiana express, Paul! Birch." For a moment, I was unsure whether I was traveling with a presidential candidate or being rushed for ATO.

His presidential image, or lack of it, isn't helped by the fact that he looks younger than his 43 years. But Nicholson notes that "God is helping." Bayh has two or three white hairs in his temple, and unlike some of his senior colleagues who are going in for hair dyes, he has "opted for staying natural."

The candidate has an unassuming manner that

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puts young people at ease. The unpretentiousness is what drew John Reuther, son of Victor Reuther and a Kennedy worker in the closing days of the 1958 California primary, to Bayh's cause. Today, he heads Youth for Bayh. Reuther first met Bayh when the candidate headed Young Citizens for Johnson and Humphrey in 1964. Then, while Reuther was in Moscow working on his master's thesis, Bayh came for a visit and the young man helped set up a meeting with Russian students. After showing a film on the Apollo 11 mission to a room jammed with 300 students, Reuther and Bayh met informally with about 15 young friends of Reuther's. During the evening, Bayh restrung a seven-string Russian guitar and sang "Blowin' in the Wind," a song the students knew. When they broke up in the early hours, the Indianan walked out of the building arm-in-arm with his new friends singing "We Shall Overcome."

Indiana reporters tell a story current in Hoosierland about an early bit of advice Bayh received. He was visiting in Enid, Okla., the hometown of Marvella, and while there met Enid's stodgy but durable Rep. Page Belcher (R) at a social function. Bayh asked the only Republican in Oklahoma's delegation for many years how to launch a political career. Belcher is said to have advised him to "go home, look around for an office you can win and, once elected, start looking around for another one to step into." In 1956 (at 28), Bayh won a seat in Indiana's lower house, one of a handful to survive the Eisenhower landslide. Two years later, a revolt against the GOP gave the Democrats 79-21 control of that body, the majority of them freshmen. Bayh moved fast, and in the same month he turned 31 was chosen Speaker. Four years later, he went for the Senate seat of Homer E. Capehart, a crusty, talkative, ungrammatical, right-leaning conservative many feared had become a Senate fixture. By unseating him, Bayh became an instant celebrity.

To get that crack at Capehart, Bayh had to sidetrack Mayor Charlie Boswell of Indianapolis, a conservative Democrat backed by the party chieftains, who normally control state nominating conventions. Essentially, Bayh is a political realist with the guts to take a chance, either on an issue or as a candidate. He tends to edge toward center with sallies into left field. Against Boswell, he mobilized sentiment within the party for the programs of the New Frontier. Six years later, he ran an incumbent's campaign with not too much stress on issues.

Some of Bayh's stylistic touches were tried in that first Senate race. Bayh saturated the Hoosier airwaves with an inane jingle set to the tune of "Look Me Over"; it served to prod apathetic voters into learning how to pronounce his name (as in Bye, Bye). Today, Bayh's managers have a more sophisticated radio operation that feeds local stations all over the country on an hourly basis (three units, 100 calls per day). Brief statements, often from press releases, have replaced the jingle; still, a frivolous touch is found in campaign buttons: "Good Bayh Nixon" or "I'm a Bayh Partisan."

How does all this set him aside from capable, perhaps more committed, younger members of the Senate. Why not one of them? Frank Church of Idaho is young and handsome and a more eloquent orator. He spoke out against Vietnam very early, and in 1968 had to run for reelection in an even more right-wing state. Gaylord Nelson of Wisconsin is sometimes called "Mr. Environment" for his personal sponsorship of Earth Day of 1970. There's Walter Mondale of Minnesota – attractive, bright, articulate, gutsy. William Proxmire, also of Wisconsin, has the scalp of SST's promoters hanging from his belt. Why Bayh?

The obvious answer is Haynsworth and Carswell. Not only did these two Supreme Court nominations stir the liberal-left but they worried traditional liberal institutionalists – the AFL-CIO hierarchy, the civil rights leadership circle from the sixties.

But the obvious answer may not be the truest one. It overlooks the fact Bayh moved out, built a skeletal presidential organization when there was still time to stake out a good lane on an already overcrowded track. It doesn't take into account the sheer love of politics which led him to busily carry water for his political elders during his first years in the Senate. Perhaps he sensed it would be at least a decade before he could start looking around, in a serious way, for something higher. Bayh spent those early years on the Humphrey circuit, following the footprints of HHH to party fund raisers in remote cities, temple dinners and union rallies. His eagerness will take him any place, any time. No need to worry about a lazy, pouting principal. He doesn't have temper tantrums. If he prays, he keeps it to himself. He has a beautiful wife who's a solid campaigner in her own right and is already keeping a full, independent schedule.

If staffing and a willingness to take sound advice is important, count Bayh in. Early in the Haynsworth case actually before there was a fight, Bayh had what is described as an "alerting kind of visit" from Andy Biemiller and Tom Harris of the AFL-CIO. "Don't make a commitment," they warned. Then Bayh left for the Soviet Union. In London, on his return trip, he took a call from Keefe who was anxious to tell him things were stirring.

Then fate intervened. Keefe put in the call on Saturday, the hearings were due to start on Tuesday and Bayh wouldn't get home until late Monday, giving him only a few hours to look over the new material and frame some questions. But while Keefe was on the phone, his young son came running in to tell him Everett Dirksen, the GOP power on the Judiciary Committee and, indeed, in the Senate, had just died. The

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hearings were postponed for a week, giving Bayh time to sit down with staff and friends who'd been digging into the Haynsworth case. Bayh put together some questions and, somewhat to his surprise, Haynsworth didn't answer them very satisfactorily. Bayh assumed the leadership of a fight that was to make his name a household word among party activists. Later, he undertook the Carswell confrontation against higher odds. He was flooded with praise from the source he respects the most – the legal fraternity. Men of considerable substance offered him help should he try for higher office.

Bayh's accomplishments in the Senate center around his work on the Judiciary Committee – the presidential succession and electoral college reform amendments, the fights against Haynsworth and Carswell. His record on Vietnam is, to be charitable, pedestrian. He voiced his first doubts in January of 1968 but kept the issue out of sight in his campaign for reelection that year, playing both sides when forced to show his hand. (At Chicago, he voted for Humphrey *and* the peace plank.) He didn't endorse the April 24 peace march, putting him a pace or two behind Muskie. But like Muskie, he slipped over to the administration side when Mansfield offered his resolution to cut troop levels in Europe.

His ADA rating was 88 percent in 1963, his first year; 84 in 1964, 94 in 1965, 80 in 1966, 62 in 1967, and 50 percent in 1968. It went up to 78 in 1969 and 75 in 1970. ADA used 14 votes to score the Senate in 1968 and found Bayh was wrong six times and absent twice (one announced for the ADA position). The votes ADA considered "wrong" in 1968 included: against deleting a provision for wire tapping and electronic surveillance from the Omnibus Crime Bill; against a prohibition on interstate mail order sale of firearms; against (paired) extending the life of the Arms Control and Disarmament Agency; against delaying authorization of the Sentinel antiballistic missile system (ABM); and for the transfer of Headstart from the Office of Economic Opportunity to the Office of Education. That fall, Bayh beat William Ruckelshaus, an able and clean-cut young GOP candidate, by 70,000.

In 1970, he cast only one vote ADA disapproved of (four absences cut his rating to 75). It was a vote against reducing penalties for the possession and distribution of marijuana.

Compare this with Bayh's COPE record. Labor's chieftains, who have been scoring things a bit differently than their liberal brethren for the last decade, found him right 40 times and wrong once (with a number of absences) since he came to Congress. The one wrong vote: against Sen. Ralph Yarborough's attempt to kill compulsory arbitration.

In the Calley case, Bayh ignored his Hoosier mail (it was running 100-1 for Calley) and said "President Nixon is determined to play politics with the Calley decision and the entire Mylai tragedy." It gave his staff, which had qualms about the prudence of the statement, a confidence in the moral qualities of their candidate and they speak of it frequently. Since then, Bayh has tended to tie his increasingly militant anti-war stance ("if we can get out before November of 1972, we can get out by the end of this year") to the Calley case. In Providence, RI, he said the Vietnam war "is diametrically opposed to our national interest if, by national interest you mean a nation united, not torn apart, a nation with belief in its own moral mission, rather than one choosing up sides on an alleged baby killer."

Does Bayh have much of a chance? Probably not, but his nomination is no longer out of the question. His successes have put his competition on the alert. For instance, after Gilbert's name was linked with Bayh in print, Gilbert had a telephone call from Hubert Humphrey asking him to hold off until September. The reply: "Hubert, for you there's no September. It goes August, October, November . . ." After Moretti was linked in print with Bayh, he had a chatty telephone call from Ted Kennedy, for no apparent reason.

The key is the primaries. Bayh has a strong residue of goodwill among labor officials at every level, party workers who've heard him speak at one of their countless gatherings, and civil rights leaders. If Bayh were to catch fire in the primaries, they certainly wouldn't oppose him, and a good many would help him.

He continues to have trouble with his speeches. For some reason, Bayh can't find a speech writer to his liking and, in the case of both speeches I heard him give, was working on them himself up to the last minute. One was before the Village Independent Democrats (VID) in New York City. Bayh sat in his car for a half hour revising his draft, thereby missing the cocktail party. Then he recited facts that might have stirred the ladies of the Shelbyville, Ind., Democratic Women's Club but made little impression on a sharp New York crowd that probably knew them all before Bayh did. The second occasion was the 12-minute Jefferson-Jackson Day dinner in Milwaukee, which he worked on most of the two days I was with him. It was just short of a disaster, causing one listener to comment that he sounded like "a little boy trying to play senator." These may be exceptions. Generally, Bayh's speeches to party gatherings are well received. A good dose of anti-Nixon rhetoric, spiced with a few current facts is usually adequate.

Bayh is still relatively unknown among the rank-and-file of voters. To many, he looks like an ideal running mate for Muskie – youthful, midwestern, Protestant, good on Haynsworth and Carswell but not too far out on the war. Bayh wouldn't say no to second place, but he won't say yes – yet.

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Stanley Kauffmann on films

Une Femme Douce

(New Yorker)

The Panic in Needle Park

(20th Century-Fox)

In some ways Robert Bresson is like Bergman. His films are manifests of his inner life. At this level he has made some films that are successful artworks and some that are only finely wrought evidences of intent. Among the former are *A Man Escaped* and *Diary of a Country Priest*. Among the latter I would place his latest American release *Une Femme Douce*.

Bresson's source is Dostoevsky's story *A Gentle Creature*. It begins with the suicide of a young wife, and the bereaved husband then recounts the events that led up to it. He is a pawnbroker, she was a young girl who patronized his shop and who, after a time, accepted his proposal. There was occasional joy in the marriage but never true union; she was distanced by his attempts at domination and his worldliness. She was attracted to another man but didn't have an affair. A climax of illness and harassment led her almost to shoot her husband. Just when he thought matters had reached some peace, she jumped from a window.

Bresson transposes the story to modern Paris and films it with that beautiful selectivity of frame and shot that, at its best, is like the notes of a Handel aria falling into order. The first sequence after the credits: a door; the maid going through into an empty bedroom; the balcony outside, with a table overturned and a rocking chair still rocking; then, from below the railing, a white shawl against the sky, floating down.

In the prosody of the film, there is scarcely a stroke out of place. Bresson is so discriminating that he uses a huge close-up only once: the wife's face as she steps out on the balcony at the end, just before she jumps. Because it's the only such close-up, the effect is like a great, simple utterance.

The sound-track is unusually and subtly important. Under the credits we drive up a busy Paris street at night, with crowds, neon signs, dense traffic. Then, throughout the picture, all through the scenes between this couple who are locked in a breast-to-breast struggle, the noise of Paris traffic flows by outside. (And the one meeting we see between the wife and her non-lover is in a car!) We become used to the traffic sounds as we become used to them in our own city lives, yet they are always subliminally present, an aural context of Now for a drama that is meant to be timeless.

But contexts – of various sorts – are really all that the film provides: the center is missing. Why does this film exist? To realize a drama (as the story does successfully), reported by someone who doesn't really understand it: the drama of an essentially religious soul driven by the imperfections of the world to suicide. Here, the religious atmosphere is only sketched. At the outset, when the girl comes to the shop, she pawns a crucifix. (One of Bresson's less happy touches: the pawnbroker separates the Christ from the gold cross; he wants only the latter.) At the end she glances at the crucifix in her drawer just before she jumps. No more. And contradictorily, she is married in a civil ceremony.

The sense of spiritual locus, which Bresson got so easily in *Mouchette*, is missing here. The conflict seems to have been changed from one between materialism and spirituality to one between materialism and culture sensibility. Bresson's pawnbroker is not presented as stupid or illiterate, but the contrast with his pawnshop world is presented more with visits to museums or to a performance of *Hamlet* than with other-worldliness.

Even this conflict is thinly drawn. The beautiful Dominique Sanda, the wife, could have provided the drama, but she is not given the material, however implicit, with which to work. She is further hampered by Guy Frangin who, as the husband, is a dead and deadpan loss. At one point Frangin is supposed to break down. He covers his face with his hand, and I'd bet that the sob we hear was dubbed by someone else. He's the blankest Bresson actor since Martin Lassalle in *Pickpocket*, whom he resembles.

So Bresson's taciturn camera has delicately circumscribed a theater in which his intended spiritual drama does not take place. Still I hope that people who like Bresson will see the film. *Une Femme Douce* is the work of an artist – even if not one of his successes. Film artists of his caliber are not so common that we can afford to miss anything they do.

The Panic in Needle Park is a naturalistic phony. It deals with New York drug addicts (Needle Park is the nickname of a small park on upper Broadway), and I'm sure that every grimy detail is true; but precisely because the drug problem is so horrible in this country, a film that deals with it

(Continued on Page 35)

Films Worth Seeing

Claire's Knee. Eric Rohmer's chaste and fascinating study of early middle-aged desire, in a style that is utterly, if quietly, cinematic. Diderot would have liked it.

La Collectioneuse. Also by Rohmer, also about desire. Somewhat less chaste and considerably less complex, but still gratifying. Nestor Almendros photographed both Rohmer films in delightful color.

The Confession. Costa-Gavras, who made *Z*, has made less of a thriller and more of a Koestlerian drama about the 1952 purges in Czechoslovakia. Yves Montand is the century's victim.

Derby. Roller, that is. A quasi documentary about a young man who wants to be member of a racing team. Robert Kaylor, director and cameraman, has caught the rink world and the world around it.

Little Big Man. Lots of gore and also considerable humor in this morality tale of a trapper who lives to 121, alternating between white and Indian societies. Arthur Penn directed, but Dustin Hoffman makes the film.

Patton. Re-issued. A generally gripping film, damn it. George C. Scott is monumental, Franklin Schaffner has directed deftly. Fred Koenekamp has photographed stunningly. Hold on to your gorge and go. SK

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Rain Forest and Old Plantation

Another Roadside Attraction by Tom Robbins

(Doubleday; $6.95)

A Cry of Absence by Madison Jones

(Crown; $5.95)

For the first pages of Tom Robbin's "apocalyptic entertainment" a girl named Amanda brings us miscellaneous wisdom, such as, "The life-span of the butterfly is precisely the right length." Amanda is also a sexual delight, and the wife of a musical guru-ish type named Ziller who soon steals the spotlight from her by becoming a member of the Indo-Tibetan Circus And Giant Panda Gypsy Blues Band. Later, he and Amanda establish a roadside attraction that mixes hot dogs with the Second Coming.

The Second Coming has a large negative charge to it that I will not divulge here, other than to report that on the book's front cover there is a picture of Amanda carrying the body of Christ, complete with halo, out of a circus tent.

On the book's back cover there is a picture of the young author, Tom Robbins, looking disheveled and frivolous as indeed he should. But, properly to represent him, a second picture should also have been supplied, minus the smile and in more sombre attire, since Robbins liberally mixes philosophy and social commentary with his circus, and his embarrassment at his own riches persists for four hundred pages.

His riches are of course Consciousness-Three riches, the riches of sky castles and pastoral retreats from middle class nonsense, but he has as well an old-fashioned interest in mundane detail, and displays admirable powers of observation of the everyday world, from mushrooms to the Pope, powers that would not be displayed if his alienation from the world ran deep. What is disconcerting is the mix of worldly and apocalyptic. No other up-and-coming talent I have run across has the mix so deeply built in, the mix that is our national social artistic literary tragical comical political academical confusion; and no other author I have run across is less sure whether to laugh or cry. So he does both.

The result is, I'd say, a fairly reliable composite of the current vagaries of Con-Three, which has been pushed into a defensive posture lately, presaging perhaps a new realism. No retreat *from* the woods and the resolutely interior life seems to be scheduled yet, but at least in the Robbins book there is a prevailing ironic awareness that marks all the fantasizing at a discount. My wholly unresearched guess is that because of this awareness the next book by Robbins will be sparer, straighter, tougher somehow. The question is how, and it is a question that goes far beyond Robbins.

In both poetry and fiction for some time the motion has been steadily to bigger and better extravaganzas of word and spirit. When that motion is reversed and the writer feels uncomfortable bringing Christ back to earth or adding, in the Tom Wolfe manner, ten adjectives to the noun, where does he then go? It seems unlikely that at this juncture he will devote himself to sober detailings of the daily lives of bank tellers and suburbanites, but what is available in between the suburbs and the fading apocalyptic?

I say "available" advisedly, though I am not quite sure what I mean by it. At any given cultural moment the gods offer only a few crumbs, not the whole loaf. The pickings for the next few years may be slim simply because the last few years have been years of indulgence. But what those pickings will be, what they *can* be, is not at all clear. Tom Robbins, in his "rain forest north of Seattle," (dust jacket data) is presumably wrestling now with the question of what experience is available to him as a writer now that he has done his apocalypse novel; but our young radicals everywhere, in and out of literature, will soon have to wrestle with the same question if the current symptoms of decadence in Con-Three mean anything. For the question intrudes on both art and life. If you decide that living in the rain forest is a joke, do you then go back to the family office? When astrology palls, do you swing back to statistics about home-run hitters? And what then happens to the country's drawers full of jeans and sandals?

The crystal ball murks over badly at this point, but *Another Roadside Attraction* offers one little clue that, in the absence of others, I will hang on grimly to here: conventional melodrama, that is, all the ingredients of TV westerns, war stories, spy stories, science-fiction and old-fashioned mysteries are still very much a part of the gods' offerings to the young writer. The apocalypse may vanish from his brains but Sam Smart and the Martians and even Porky Pig will stay. I say this not only as a result of my round with the Robbins book but also from trying to catch the spirit of the times as visible currently in the writings of college students. Where Robbins and his kind are *not* defensive, *not* edgy, *not* undecided as to whether to live in rain forest or suburb is at the level of the most mundane TV comedy and melodrama they have been conditioned to by the tube. There the conventions bug not; there everybody feels cozy.

This is a curious thing. Pop art as a joke, like *Batman*, has had its run. Though the Robbins book has something of the heavy-handed spirit of *Batman* lurking in its origins, it is thoroughly beyond *Batman* in the sense that it wants to *use* melodrama again rather than ridicule it. Robbins is happy and assured when he is concocting further furbelows to his wild narrative, his story line, as he is not when he is trying to endow the story with theology and significance. The revolution with its attendant obligations seems to take a back seat in his life when he can be comfortably bourgeois again to the degree of accepting the

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least demanding and most familiar bourgeois literary conventions.

What the apocalypse in any of its forms has not paid heed to is character. Out where the blue begins everybody is simply kooky. Character exists of course, but it exists in the Old World and is impossible and is not part of the action after page one. Character is a sort of infirmity of Consciousness Two; it is an immature psychological condition, a deficiency of understanding, so that a family such as the family in the new novel by Madison Jones may be regarded as Neanderthal. It is a Southern family – a mother and two sons, surrounded by relatives and the past – in which each character is programmed to the inevitabilities, to use a fancy phrase, of his characterological destiny. The game of the novelist in such a novel – and it is a serious game – is to present the particular configurations of each character, together with background and context, and let 'er rip, that is, let each character respond in his necessary way to the game's occasion. On the dust jacket of *A Cry of Absence* one critic finds the spirit of Thomas Hardy in Madison Jones. True, but it is also the spirit of Aristotle; and when the spirit is strong and good it produces moments of great tension (known in ancient days as drama) between the characterological possibilities. The apocalypse is beyond drama. People just talk instead – and move whimsically about in free open places.

A Cry of Absence, then, is an old-fashioned novel about that old-fashioned place, the South, which is several thousand miles and many decades away from Tom Robbins's rain forest. The scene is a small town where the murder of a reformist black, "the one been stirring the trouble up," is given us as the occasion in which we may see the differing characterological responses of mother and sons to the racial thing, and their common familial and cultural resentment of a force that has so long well served Southerners as a manifestation of cruel destiny: Northern liberalism. The several humanitarian Northerners who play at being fate in the novel are blustery purists, sociological types who think the South is a savage place and glibly define race relations there as inhuman (it is of course the Northerners who are, in the novel's context, inhuman). The Southerners are impure and relentlessly driven to violence; they have varying allegiances; they are torn and troubled – and ultimately doomed – but even as murderers or bigots they have a clear spiritual edge over the Northern doomsters. Hence the drama of the novel is not primarily between North and South but between the members of the family. *There* is the holy center that the apocalypse has impiously abandoned, and that destiny has decided to destroy. *A Cry of Absence* is about the destruction of that center. It is another novel saying farewell to the Southern Way.

In its relentless fatalism the novel has a kind of flatness to it that sometimes makes one yearn for the zaniness of the rain forest. When characters have been rigorously pared down to their destinies by a dedicated fictional craftsman they are seldom affable bedtime companions.

This is a forbidding book. Its toughness is perhaps a bit too admirable, but admirable it is. And, oddly, there is a tenuous but I think significant spiritual connection between the resilient but vanishing South of the Jones novel, and the not vanishing but perhaps never quite existing rain forest where Robbins does his thing. The chief connection emerges in their sharing of the common bourgeois enemy. Hating middle-class morality has produced unlikely literary bedfellows for the whole century, but the contemporary significance of these uneasy alliances is that the enemy is now wearing new ideological clothing, is full of good works, from integration to clean air; he is not just the old get-ahead chamber-of-commerce set. Fighting the Good in the form of social progress and abstract humanitarianism is a cause that the Old South has always been extremely eloquent and sensible about – and in an odd way the bright young escapees to the rain forest seem now to be heading in the direction of a similarly negative view, searching for an acceptable gospel of limits. At the moment Robbins, as an instance, seems to be telling us in his comic way that even to entertain idly any notions of substantial social reform is stupid; one would do better to go fly a balloon (which is what Robbins's hero *does* do). I don't know what lies in store for Robbins as a novelist as a result, any more than I know where the firm traditionalist Madison Jones will go now that he has *done* the end of the Southern family; but it seems at least evident that in both cases what is left as available material is isolated humanity, North and South, battling the old inhuman in the form of modern mainstream America.

Reed Whittemore

Dyed Whiskers and Ginger Beer

Lord Palmerston by Jasper Ridley

(Dutton; $12.50)

Some men are born great and some have greatness thrust upon them by their admiring biographers. Palmerston, a British cabinet minister under the Tories and Whigs and a Prime Minister who died six months after Abraham Lincoln, has had greatness thrust upon him by Jasper Ridley, but may not deserve it. In any event Palmerston in his own lifetime had clear-cut ideas about greatness. A great king, he argued, dealt his cards from the top of the deck, especially when treating with ordinary people. And he cited the case of Prussia's Frederick II, who began to build a palace at Sans-Souci only to find his plans ignored by a cottager. This hard-headed peasant refused to sell his minuscle piece of land and his cottage was standing, surrounded by palace, decades later.

The democratic slant of this story shouldn't deceive us about Palmerston.

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Until his last years, when mellowness crept in on him and he became the masses' idolized "Old Pam," he was one of the most arrogant figures in public life. "I like power: I think power very pleasant," he wrote, and he used power with a latitude and condescension just as irritating to royalty as to government clerks. He rarely let Victoria in on his plans and he bypassed Queen and Prince Consort alike when a crisis turned up demanding gut decisions. Handling foreign VIP's as diffidently as if they were embassy clerks, he kept an outraged Talleyrand waiting two hours to see him. Tactics like these finally drew from the Belgian Minister the quip that he'd read the whole of *Clarissa* while he cooled his heels in Palmerston's anteroom. All right, says biographer Ridley in effect, the man was an egotist, a skirt-chaser even when he was sixty, a spendthrift whose creditors repeatedly hauled him into court, and a liar who edited documents for the "benefit" of Parliament – yet "a great Foreign Secretary"!

Looking at Palmerston's career – he made a beeline for the political life when he graduated from Cambridge, and bowed out of politics and life together just before his eighty-first birthday – a cynic would say that to become a national hero you have to work hard at being an international villain. German verses, for example, insinuated that Palmerston was the son of the Devil, and Victor Hugo castigated him as a play-actor and fraud. A Russian princess, and a supposed authority on his bedroom habits, declared that "Europe depended upon which leg . . . he put out of bed first." His political principles were in fact a tuttifrutti of prejudices. He bullied Mexico, Spain, Portugal, and Greece, even blockading Greek ports until the government agreed to pay an alleged British citizen for property demolished by a rampaging mob. He abridged the dispatches of a British agent in India and, as a result of these distortions, the agent was branded a traitor by fanatical Afghans and killed in one of their uprisings.

Palmerston cast his shadow where no gunboats could sail and forced Switzerland to expel its Polish refugees. And where the British navy could strike, he played his scare tactics like a virtuoso, backing English merchants who smuggled opium into China and setting off the barbarisms of the Opium War. Generations after Napoleon had threatened to invade England, Palmerston revived alarms that France would pull the trigger this time if Britain napped. He used pretty rhetoric about England's big-brother relationship with Denmark but refused to raise a finger when Prussia and Austria ganged up and dispossessed her of Schleswig-Holstein. Nations for good or ill have long memories. His inaction in this instance was a go-ahead signal to Prussian militarists and a source of some of our twentieth century disasters.

How did such a man ingratiate himself with the British public until millions accepted the fiction that "Pam" could do no wrong? Did the arrogance that colored his treatment of foreign governments change to loving-kindness at home? Hardly. As Home Secretary he offered a mixed bag of minor reforms and schemes for keeping the rich and the poor in their places. Believing education would cut the crime rate among the poor, he talked hawkishly about priorities and decided it was more important to spend John Bull's monies on weaponry than on schools. The man's popularity, it is clear, rested less on what he did than on his image – part of it a newspaper concoction that he owed to friendly journalists.

He was tall, jaunty, and handsome despite his dyed whiskers. Though gossip found rich pickings in his private life, the masses were far from straitlaced toward tales of his misconduct. It amused many that this "Lord Cupid" invited scandal long after age should have toned him down. Enemies, of course, declared him vicious rather than naughty and one remarked that this superannuated Regency beau looked like a retired croupier. "At best," said Disraeli, he was "ginger beer and not champagne." But the public admired the Palmerstonian ginger, delighted in the way Pam snubbed foreign kings and applauded him for playing "ce terrible milord" toward benighted governments that wouldn't adopt the English system.

Faced with a real-life character as picturesque and boisterous as any in Dickens, Ridley accepts Palmerston's greatness as unanswerable fact. To be sure, a politician who climbs to Prime Minister at seventy and is still performing at eighty has the epic hero's virtue of durability. But durability is not statesmanship; nor is gunboat diplomacy proof of resourceful, creative leadership. For all his agility in ducking

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trouble, Palmerston got England into four minor wars and failed to keep it out of the Crimean fiasco. Even in his own day he was criticized for jingoism and brinksmanship. During our Civil War, disclaiming any intentions of meddling, he declared that Britain would "support other nations in their struggles to obtain for themselves institutions similar to those which have been described as forming the boast of this country." He looked forward to a Confederate victory and pressured English newspapers into cranking out hate propaganda against the Northern cause. This was the Palmerston, note, who had for years laid it on red-hot whenever he spoke of the slave trade. But Palmerston and the majority of English conservatives were unhappy at the prospect of universal freedom in America and the possibility that this freedom was a step toward a classless society.

In summing up what he thought of class and caste, Ridley observes that Palmerston sympathized neither with Oliver Twist nor Jean Valjean. As owner of a large estate near Sligo, Palmerston had at least a talking acquaintance with the Irish peasant. Moreover, when Home Secretary he visited English prisons and managed to pare solitary confinement from eighteen months to nine. Not ignorance of the poor but loyalty to his own class seems to have governed Palmerston's views of social legislation.

Opportunism and the lack of a historical vision – which caused Palmerston to shuttle unpredictably between conservatism and radicalism and to fix his place as a second-rater – don't diminish his fascination. Europe and Palmerston himself were undoubtedly victims of his supercharged ego, but it was an ego like no other. To Lytton Strachey he summarized everything England stood for. To Harold Nicolson he was an enigma – which Nicolson was sure he had the key to. Favorable and unfavorable critics have recognized that when Palmerston laid aside the mask of the sardonic Regency lord, he showed charms few could resist. In his chapter on the charms and idiosyncrasies of "old Pam," Ridley is at his best, giving himself the elbow room that portrait painting demands when the subject is many-sided. But it is as a rich and thick slice of international history that *Lord Palmerston* makes its argument for survival. Though Ridley's style is clear and concise, it is unexceptionable at best; at worst it suggests the assembly line. To say that Ridley abounds in minute facts is to acknowledge the earnestness of his scholarship while questioning whether he has the skill, or artist's instinct, for selecting and rigidly screening out. More subjectivity, a freer use of personal judgments and cogitations, a more frequent search for meaning even if it plunged the author into risks alarming to the scholarly conscience – these might have given *Lord Palmerston* the precious virtues that stretch the life of a literary work.

James Walt

A Rich Parable

Being There
by Jerzy Kosinski

(Harcourt Brace Jovanovich; $4.95)

When I first read *The Painted Bird* some years ago, I knew nothing of the author. Part way through I looked to see who had translated this strange and powerful book, but it had been written in English. The name Jerzy Kosinski – the first name more than the last – had suggested a non-American Pole, but even more, I could not believe that someone who wrote with such justified assurance would simply appear unheralded on the American scene. Beyond that, and more important, was the nature of the novel itself. There are, in both English and American literature, works which attempt to communicate horror, brutality, violence – all that man can inflict on man. But the awful vision that is communicated by this story of a small boy swept from one East European village to another during World War II has no close parallel in our literature.

By the time I read *Steps*, Kosinski's second novel, I had learned something about him, about a life that seemed in some of its aspects as bizarre as elements in *The Painted Bird*, and as alien to American experience. There was an evident relation between the author and his works. There was also a relation between the two books, some scenes from *Steps* having family ties with those in *The Painted Bird*. But however disturbing these scenes were, and however successful the author in achieving his purpose, no one who had read the earlier novel could encounter these scenes with the same shock and surprise they first evoked. The sledgehammer could still swing at the pit of one's feelings, but the force was lesser.

All of which is apropos of Kosinski's most recent novel, *Being There*. Though we like to elevate the autonomy of the individual work, we anticipate on the basis of the writer's past performance; we seek, in the new work, his individual stamp. "Is it there? Does he still have it?"

Being There represents a significant departure for Kosinski. The place is America, the time is now, and the literary genre is the parable. One could describe both *The Painted Bird* and *Steps*, label them, relate some incidents, but only faintly communicate what is central in those works. But what is central in *Being There* is the narrative, the parable, which could be adequately related in about five minutes. Less adequately like this: Born retarded, Chance works for years in the rich man's house as a gardener, shut off from the outside world, depending for nurture on the garden and the TV, from which he gets his notions of how people act. When the rich man dies he is thrown into the world. As the result of an accident, he is introduced into the home of a wealthy, powerful man. His simpleness, his silence, his references to gardening which sophisticated people read as subtle metaphor, his lack of any known background – all conspire to allow people to credit him with what they want to see. These people include the wealthy man's young wife, the President of the United States, the Secretary General of the UN, the Soviet Ambassador, a German count, a masochistic homosexual, publishers and editors. Because Chance depends for the forms of his behavior

Notes on Contributors

James Walt *teaches English at the University of Maryland.* James Finn *is the editor of* Conscience and Command: Justice and Discipline in the Military, *recently published by Random House.*

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on what he has seen on TV, he is uninformed and incompetent in certain areas, most importantly the sexual. But with the highly limited abilities that are his, he rises quickly and ignorantly to the top of several levels of our society, including, as the novel ends, a shot at the vice presidency of the United States.

To make of this a consistent, coherent and interesting narrative requires certain literary skills, which Kosinski has. But the heart of *Being There* is the parable I have sketched. The parable itself provokes a number of questions which are explicitly suggested by various comments and phrases in the book. For example: "As long as one didn't look at people, they did not exist. They began to exist, as on TV, when one turned one's eye on them." From Chance's disordered brain, of course. Of course! But to what extent is it true for others? Because Chance has no records, he is assured that no man was employed as a gardener in the house in which he gardened. Does our existence in society depend so utterly on records? Or is the comment of another character more accurate: "A man's past cripples him: his background turns into a swamp and invites scrutiny"? And what of the implication that the surface images of TV provide a sufficient guide to public success? Can being *there*, on the TV screen, best establish our identity for contemporary society?

None of these questions is strikingly original; what is of moment is the direction in which *Being There* directs the reader. It extends his interest to general questions outside of the work itself, questions which can be validly considered on their own merits. We are not constrained to rest with them. We can wrestle with them on our own terms, apart from the authority of the author.

Well, not quite apart from that authority. I would think less of *Being There*, I am sure, if I did not know Kosinski's previous works. On the basis of those works, we have a right to grant Kosinski the maximum presumption of intention in this work. It becomes more than an analogue to chess problems or crossword puzzles to seek out in *Being There* the implications of various relations, repeated phrases and allusions. And it is a legitimate pleasure, if that is the accurate term, to contrast and compare this exploration of the abyss which separates people, making communication between one person and another almost impossible, with what Kosinski has previously done.

For if the vision which Kosinski has projected in his earlier works is not ours – and it is not, finally, mine – we cannot deny either its power or its attraction nor the knowledge that it derives from deep experience rather than a modish, cranked-up literary imagination. Although Kosinski has attempted less in *Being There* than in his first two novels, it approaches these works in its control, its finish. We keep a close eye, in America, on "our writers," particularly if they have hit it big with a first novel, and take an almost perverse satisfaction in seeing a giant tumble. *Being There* is not a sign of that tumble, as I am sure it will be read by some, not even a stagger. Quite the reverse, it is a sign that Kosinski is able to work in different forms, take risks of different kinds.

James Finn

Correspondence

Lindsay's Judges

Sirs:

I address myself to that portion of the article, in the May 1, 1971 issue, entitled "The Two John Lindsays," which attributes "long pre-trial detention of thousands in crowded prisons" to high bail setting and extraordinary delays in the Criminal Court. David Shipler's article also contains a sweeping condemnation of the Mayor's appointments to the Criminal Court.

Understandably, the differing jurisdictions of the Supreme Court and the Criminal Court can be confusing. The fact is, however, that the overcrowding in the city's detention centers is due to the heavy backlog of cases pending in the New York State Supreme Court, a court which does not fall within the Mayor's responsibility. The judges in the Supreme Court are elected; they are not appointed by the Mayor. In the New York City Criminal Court, which is charged with the disposition

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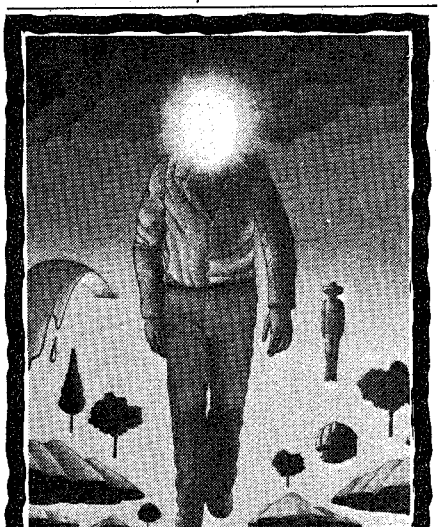

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of misdemeanor and violation cases, there are very few prisoners awaiting trial. In Manhattan, for example, in recent months, the average number of persons who have been confined for more than thirty days awaiting trial in the Criminal Court, has been less than twelve. In contrast, the backlog of persons awaiting grand jury action, pleading and trial, in the Supreme Court, as of May 11, 1971, was 1200.

Mr. Shipler may also be unaware of the fact that the judges of the Criminal Court, together with Legal Aid lawyers and Assistant District Attorneys, have reduced the backlog of pending cases in Manhattan from 21,000 on January 1, 1970 to 7,400 at present. This figure represents less than one month's volume of dispositions. This achievement of a current status was accomplished in the face of 115,000 new arraignments in Manhattan in 1970.

It is hard to see how bail setting standards can be any lower when it is estimated that there are 177,000 warrants outstanding for defendants who have jumped bail or parole. Mr. Shipler's charge of "high bail setting" is best answered by State Supreme Court Justice Miles McDonald when, resigning in "frustration" as Administrative Judge for the Second Judicial District, he said: "The number of fugitives on the street exceeds the number of defendants in jail. This results from a policy of low bail in the courts and the failure of police to apprehend these fugitives."

The article quotes Harold J. Rothwax, who was then an associated professor at Columbia Law School, as reporting that the Mayor's Committee on the Judiciary "have consciously approved many whom they knew to be unqualified." It may be of interest to note that Professor Rothwax has since been appointed a judge of the Criminal Court by the Mayor after having been approved by the Committee. Additional appointments to that court at the same time included the Director of the New York State Office of Crime Control Planning, a former Assistant District Attorney, and a then incumbent Bronx Assistant District Attorney.

I have served as an Assistant District Attorney in New York County for over twelve years and am in charge of the Criminal Courts Bureau of the office where I supervise the activities of thirty Assistant District Attorneys in the investigation, prosecution and disposition of cases in the Criminal Court in Manhattan. From my own knowledge and observation, Mayor Lindsay's appointments have, with rare exceptions, substantially improved the judicial caliber of that Bench. In filling vacancies, he has sought men with experience and qualifications in the field of Criminal Law and he has found them. In recent years, his appointments have included eight men who had extensive experience in the New York County District Attorney's Office, and four who, as members of the staff of the Legal Aid Society, had represented indigent defendants charged with crimes.

Melvin D. Glass
New York City

In Reply . . .

Certainly the State Supreme Court shares responsibility for the long pretrial detention suffered by many defendants in New York City. But even cases tried in Supreme Court are subjected first to processing and hearings in Criminal Court. The Criminal Justice Coordinating Council, a panel of distinguished citizens and officials appointed and headed by the Mayor, wrote in a detailed study several months ago, in comparing the Criminal Court, The Supreme Court and the Family Court, "The New York City Criminal Court is the most burdened of the three. All criminal cases are initially processed in this court; it handles all arraignments and nearly all bail setting. Preliminary hearings for both felonies and misdemeanors are held here."

This means that many defendants technically listed as awaiting trial in Supreme Court may be encountering delays in the steps that precede trial, steps that must be taken in Criminal Court before Supreme Court is reached.

"The Criminal Court at times looks like a subway station during rush hour," wrote the Criminal Justice Coordinating Council. "It is clear that the calm, deliberate atmosphere needed to weigh evidence impartially and to make charge and plea decisions does not exist in the present condition of the courts." The Council found that "at peak hours, judges may have 90 seconds per case at arraignment." In such a situation, given the attitudes of many of the judges, bail becomes virtually automatic. What is "low bail" to Mr. Glass is high beyond reach for many defendants. Again, the CJCC:

"Many prisoners are too poor to pay even the five percent premium on low bail or to meet the stringent demands for collateral by the bondsman. A pretrial jail term results. The problem with that practice is that judges often set bail that is unobtainable or use bail for purposes besides ensuring trial appearance." The CJCC contends that "at least two out of every three people remanded to detention (50,000 individuals in 1969) could be released with no increase in the non-appearance rate."

Furthermore, the usual assumption underlying arguments for high bail – that most of those arrested are guilty and will therefore flee – falls before the facts. "Of those arrested in 1968," the CJCC writes, "the last year for which complete data is available for felonies or misdemeanors, only 32 per cent were found guilty of any charge. Of the remainder, 56 per cent were acquitted or had their cases dismissed, 11 per cent failed to appear for trial and 1 per cent received dispositions. Of those found guilty, only 7.4 per cent received any sentences of over one year in jail and only 50 per cent were sentenced to any further time in jail."

In light of Mr. Glass's views on bail, it comes as no surprise that he thinks highly of the judges that Mayor Lindsay has named to the Criminal Court. These judges have perpetuated the bail procedures. "The bail system," the CJCC declares, "which treats pre-trial release as a privilege to be bought or earned and which incarcerates persons in crowded, large institutions for long periods before adjudication of guilt or innocence, is perhaps the most nefarious element in the entire criminal justice system. Its practices add up to institutionalized injustice."

The sad fact is that in the courts, as in other of our institutions, reforms come most easily under the threat of violence. The progress Mr. Glass cites in reducing delays did not occur until inmates in the city's detention houses rioted twice. They had to take guards hostages and threaten to murder them before anyone would listen. This does not seem like a situation that the District Attorney's office or the courts or the Lindsay administration should be very proud of.

David K. Shipler

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Military Drug Use

Sirs:

I was interested to see the article, "Hard Drugs in the Military," by Senator Harold E. Hughes in the June 12 issue. His proposal exactly parallels my own bill, H. R. 8216, "The Armed Forces Drug Abuse Control Act of 1971," which now has 49 co-sponsors of both parties in the House. I am delighted that Senator Hughes is following my proposal on the Senate side.

Under the terms of my bill, a Drug Abuse Control Corps would be established in each branch of the Armed Forces to carry out comprehensive treatment-rehabilitation programs and to cut off the illegal traffic in drugs; a uniform amnesty-treatment program would be established in each of the Armed Forces; and the key provision of the bill states that "no member of an armed force who is adjudged by competent medical authority during his active duty to be addicted to a narcotic drug may be separated from service until such time as he is adjudged by competent medical authority to be free of any habitual dependence on narcotic drugs."

In outlining solutions to the drug abuse problem in the military, Senator Hughes proposed, "Universal drug treatment, rehabilitation, and preventive education programs throughout the armed services. Universal amnesty policies for drug addicts seeking help that are set forth and backed up by the highest levels in DOD. No GI with a drug problem should be discharged to return to society until his addiction is under control." I agree and I think it essential that favorable action be taken on our proposal at an early date.

John S. Monagan
Member of Congress

Kauffmann, *from page 28*

needs to be more than a sentimental exploitation.

The script is by the highly reputed Joan Didion and her husband, John Gregory Dunne, from a book by James Mills. It's the story of a Drugland Romeo and Juliet, a hetero *Midnight Cowboy*, with echoes of the Brando-Saint dialogue in *On the Waterfront*. The boy is an addict who steals to support his habit, she's an artist from Indiana. They fall for each other, and she becomes an addict just to be "with" him. There is a décor of drifters, addicts, hookers, and so on, through whom they make their way. (Warren Finnerty, of Shirley Clarke's *The Connection*, made in 1962, is here again as an addict.)

The girl becomes a hooker to buy heroin, then to support him; he protests, then accepts it. They take that obligatory trip to the country to show their poetic side; and the puppy they buy there is killed in an accident. (Poetry crushed!!) The boy gets a job as a pusher, and she rats on him to the cops. Presumably she does this so that he'll get a light sentence for non-felonious possession, and that's why

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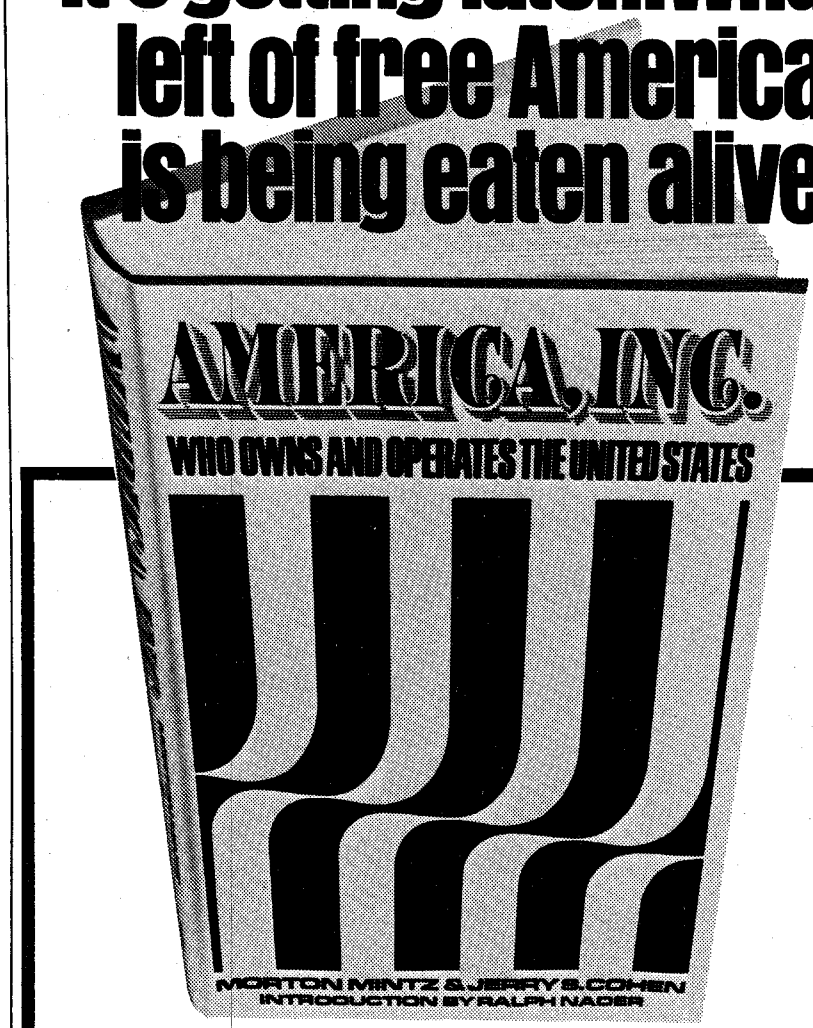

"It's getting late. The time to start is now. In the Consciousness Zero land of the corporate giants, competition where it counts is a myth, and what's left of free America is being eaten alive by a few hundred monster corporations while government agencies serve as chefs, waiters, and busboys. For would-be Naderites with the will to attempt the liberation of the country from its vampire organizations, AMERICA, INC. is the manual and the manifesto to begin with. I wish I'd written it."—**ROBERT C. TOWNSEND**

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he forgives her after his six-month term. (This is unclear in the film as edited; I got it from the publicity synopsis.) When he's released, she's waiting outside the gate and trudges faithfully after him. Like Marlene Dietrich after Gary Cooper in *Morocco*.

A lot of the dialogue is inaudible. Some of the audible dialogue consists of lines like – a burglar speaking – "This is something we can do with ease." Or – angry lover – "Open this door or I'll break it down." Or – angry lover again – "I was gonna marry you." Jerry Schatzberg has directed with a rather simple-minded reliance on huge close-ups, including close-ups of needles going into swollen veins. Adam Holender, who shot *Midnight Cowboy*, shot this film, too, in color so muted that it strains toward the black and white in which it ought to have been done.

Further to *Midnight Cowboy*, the hero is a sort of Ratso Rizzo without a limp. The young actor who plays the role, Al Pacino, even has some resemblance to Dustin Hoffman. I've seen Pacino three times on the stage and had become tired of his Dead-End tricks of menace, enlivened only by a good inner sense of rhythm, something like the silent music to which Cagney always danced through his roles. In Pacino's film debut, the tricks are at least refreshed for a time and his range extended: there are a few good love moments. Kitty Winn, the girl, is even less distinctive than she tries to be.

This film neither enlarges our factual knowledge of the drug situation nor any experience of it through art. On a polished level, it's part exploitation flick, part corny movie.

Personals

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